# IN THE UNITED STATES DISTRICT COURT
# FOR THE DISTRICT OF COLORADO

Civil Action No. 23-1108

BARRY MORPHEW,

Plaintiff,

V.

Chaffee County, Colorado,
Board of County Commissioners of Chaffee County, Colorado,
Chaffee County Sheriff's Department,
District Attorney Linda Stanley, in her individual and official capacity,
Chaffee County Sheriff John Spezze, in his individual and official capacity,
Chaffee County Undersheriff Andrew Rohrich,
Eleventh Judicial District Attorney's Office Investigator Alex Walker,
Deputy District Attorney Jeffrey Lindsey,
Deputy District Attorney Mark Hurlbert,
Chaffee County Sheriff's Detective Robin Burgess,
Chaffee County Sheriff's Deputy Randy Carricato,
Chaffee County Sheriff's Deputy Scott Himschoot,
Chaffee County Sheriff's Sergeant Claudette Hysjulien.
Chaffee County Sheriff's Sergeant William Plackner,
Colorado Bureau of Investigation Director John Camper,
Colorado Bureau of Investigation Agent Joseph Cahill,
Colorado Bureau of Investigation Agent Megan Duge,
Colorado Bureau of Investigation Agent Caitlin Rogers,
Colorado Bureau of Investigation Agent Derek Graham,
Colorado Bureau of Investigation Agent Kevin Koback,
Colorado Bureau of Investigation Agent Kirby Lewis,
Colorado Bureau of Investigations Deputy Director of Investigations Chris Schaefer,
Federal Bureau of Investigation Agent Jonathan Grusing,

Federal Bureau of Investigation Agent Kenneth Harris,
John/Jane Does 1-10,
and other unknown employees of the Eleventh Judicial District Attorney,
and other unknown officers of the Chaffee County Sheriff's Department.

---

## CIVIL RIGHTS COMPLAINT WITH DEMAND FOR TRIAL BY JURY

---

Plaintiff, Barry Morphew, by and through his attorneys, Fisher & Byrialsen, PLLC, Samler & Whitson, PC, and Eytan Law LLC brings claims against the above-listed Defendants in their individual and official capacities and requests trial by jury.

## I. PRELIMINARY STATEMENT

1. This is a civil rights action in which Barry Morphew seeks relief based on wrongful acts against him by the above named Defendants. Specifically, conspiracy to violate his state and federal constitutional rights, misconduct, wrongful acts, constitutional violations, and violations of rights secured by the laws and constitution of the United States and of Colorado (collectively referred to as “the misconduct”).

2. As set forth below, the misconduct was committed by Defendants Chaffee County and the Chaffee County Sheriff’s Department, Chaffee County Sheriff John Spezze, Andrew Rohrich, Robin Burgess, Claudette Hysjulien,

William Plackner, Scot Himschoot, Alex Walker, Randy Carricato, Joseph Cahill, Derek Graham, Kevin Koback, Megan Duge, Caitlin Rogers, John Camper, Chris Schaefer, Kirby Lewis, Linda Stanley, Jeffrey Lindsey, Mark Hurlbert, Jonathan Grusing, and Kenneth Harris.

3. Each Defendant acted under color of law and within the scope of their employment when engaging in the misconduct described herein. They are being sued in their official and individual capacities.

4. Plaintiff Barry Morphew asserts that his Constitutional rights were violated as a result of the actions and omissions of the Defendants as well as the policies, procedures, lack of procedures, customs and/or practices of the Chaffee County Sheriff's Department and the inadequate supervision and training by by the Chaffee County Sheriff's Department and by Chaffee County, Colorado.

## II. JURISDICTION AND VENUE

5. This action is brought pursuant to 42 U.S.C. §§ 1983, 1988 to redress the Defendants' deprivation of Mr. Morphew's rights secured by the U.S. Constitution.

6. This Court has jurisdiction over Mr. Morphew''s federal claims pursuant to 28 U.S.C. §§ 1331, 1343. Supplemental jurisdiction over Barry Morphew's state law claims exists pursuant to 28 U.S.C. § 1367(a).

7. Venue is proper under 28 U.S.C. § 1391(b). The majority of the Defendants reside in this judicial district, and the events and omissions giving rise to Mr. Morphew's claims occurred within the State of Colorado.

## III. PARTIES

8. At all times relevant to this Complaint, Plaintiff Barry L. Morphew was a citizen and resident of the State of Colorado.

9. Defendant Chaffee County, located in the state of Colorado, ("Chaffee County"), is a municipality organized under the laws of the State of Colorado. Defendant Chaffee County enforces local and state law through its law enforcement agency, the Chaffee County Sheriff's Department ("CCSD").

### A. Defendant Prosecutors Acting in their Investigatory Capacities

10. At all times relevant to the allegations in this Complaint, Defendants Linda Stanley, Jeff Lindsey, and Mark Hurlbert were acting under the color of state law in their capacities as District Attorney (Stanley) and Deputy District Attorney (Lindsey and Hurlbert). Each defendant's acts or omissions were conducted within the scope of their official duties or employment.

11. At all times relevant to this Complaint, Defendant Linda Stanley was acting within the scope of her official duties and employment and under

color of state law in her capacity as the elected District Attorney for the 11th Judicial District at the Eleventh Judicial District Attorney's Office ("EJDAO"). At all relevant times, Defendant Stanley was a citizen of the United States and resident of the State of Colorado.

12. At all times relevant to this Complaint, Defendant Jeff Lindsey was acting within the scope of his official duties and employment and under color of state law in his capacity as a Chief Deputy District Attorney for the 11th Judicial District. At all relevant times, Defendant Lindsey was a citizen of the United States and resident of the State of Colorado.

13. At all times relevant to this Complaint, Defendant Mark Hurlbert was acting within the scope of his official duties and employment and under color of state law in his capacity as a Deputy District Attorney for the 11th Judicial District. At all relevant times, Defendant Hurlbert was a citizen of the United States and resident of the State of Colorado.

14. All acts by Defendant DAs Stanley, Lindsey, and Hurlbert alleged herein were performed in an investigative and/or administrative phase of the case and not in their prosecutorial roles as an advocate for the state.

15. Defendants Stanley, Lindsey, and Hurlbert are included in the collective reference, "Defendant Prosecutors."

### B. DA Investigator Alex Walker

16. At all times relevant to this Complaint, Defendant Alex Walker was acting within the scope of his official duties and employment and under color of state law in his capacity, first as a Criminal Investigator with the EJDAO and, beginning in June 2021, as a CCSD Investigations Commander. This defendant's acts or omissions were conducted within the scope of his official duties or employment.

17. At all relevant times, Defendant Walker was a citizen of the United States and resident of the State of Colorado.

18. Defendant Walker is included in the collective reference, "Defendant Officers."

### C. Officer Defendants – Chaffee County Sheriff's Office

19. At all times relevant to the allegations in this Complaint, the Individual CCSD Defendants – John Spezze, Andrew Rohrich, Robin Burgess, Randy Carricato, Scott Himschoot, Claudette Hyusjulien, William Plackner, and Alex Walker – were "peace officers" under Colo. Rev. Stat. § 24-31-901(3) and were employed by a local government and as such, were acting under color of state law and within the course and scope of their employment. Each of these defendant's acts or omissions were conducted within the scope of their official duties or employment.

20. At all times relevant to this Complaint, Defendant John Spezze was the Chaffee County Sheriff, elected pursuant to Colo. Const., Const. art. 14, § 8 and a citizen of the United States and resident of the State of Colorado.

21. Defendant Speeze acted in a supervisory capacity over the other Defendant-CCSD Officers at all times relevant to this Complaint.

22. The constitutional injuries complained of herein were proximately caused by a pattern and practice of misconduct within the CCSD, which occurred with the knowledge and consent of Defendant Spezze and Defendant Undersheriff Andrew Rohrich.

23. Defendants John Spezze and Andrew Rohrich had personal knowledge about and participated in, facilitated, approved, and/or condoned this pattern and practice of misconduct, or at least recklessly caused the alleged deprivation by their actions or by their deliberately indifferent failure to act.

24. As the Sheriff of Chaffee County, Defendant Spezze oversees the CCSD, which, at the time of the events alleged herein, employed Defendants Andrew Rohrich, Robin Burgess, Claudette Hysjulien, William Plackner, Scot Himschoot, Alex Walker, Randy Carricato, and other unknown officers of the CCSD. The Chaffee County Sheriff is also responsible for the policies and practices of the CCSD.

25. At all times relevant to this Complaint, Defendant Andrew Rohrich was acting within the scope of his official duties and employment and under color of state law in his capacity as the Chaffee County Undersheriff. At all relevant times, Defendant Rohrich was a citizen of the United States and resident of the State of Colorado.

26. At all times relevant to this Complaint, Defendant Robin Burgess was acting within the scope of his official duties and employment and under color of state law in his capacity as a Chaffee County Sheriff's Deputy. At all relevant times, Defendant Burgess was a citizen of the United States and resident of the State of Colorado.

27. At all times relevant to this Complaint, Defendant Claudette Hysjulien was acting within the scope of her official duties and employment and under color of state law in her capacity as a CCSD Sergeant. At all relevant times, Defendant Hysjulien was a citizen of the United States and resident of the State of Colorado.

28. At all times relevant to this Complaint, Defendant William Plackner was acting within the scope of his official duties and employment and under color of state law in his capacity as a CCSD Sergeant. At all relevant times, Defendant Plackner was a citizen of the United States and resident of the State of Colorado.

29. At all times relevant to this Complaint, Defendant Scott Himschoot was acting within the scope of his official duties and employment and under color of state law in his capacity as a CCSD Deputy. At all relevant times, Defendant Himschoot was a citizen of the United States and resident of the State of Colorado.

30. At all times relevant to this Complaint, Defendant Randy Carricato was acting within the scope of his official duties and employment and under color of state law in his capacity as a CCSD Deputy. At all relevant times, Defendant Carricato was a citizen of the United States and resident of the State of Colorado.

31. All of the above defendants are included in the collective reference, "Defendant CCSD Officers."

### D. Officer Defendants – Colorado Bureau of Investigation

32. At all times relevant to the allegations in this Complaint, the Individual CBI Defendants – John Camper, Joseph Cahill, Megan Duge, Caitin Rogers, Derek Graham, Kevin Koback, Kirby Lewis, and Chris Schaefer – were "peace officers" under Colo. Rev. Stat. § 24-31-901(3) and were employed by a Colorado state agency, the Colorado Bureau of Investigation ("CBI") and as such, were acting under color of state law and within the course and scope of

their employment. Each of these defendant's acts or omissions were conducted within the scope of their official duties or employment.

33. At all times relevant to this Complaint, Defendant Joseph Cahill was acting within the scope of his official duties and employment and under color of state law in his capacity as a CBI Agent. At all relevant times, Defendant Cahill was a citizen of the United States and resident of the State of Colorado.

34. At all times relevant to this Complaint, Defendant Derek Graham was acting within the scope of his official duties and employment and under color of state law in his capacity as a CBI Agent. At all relevant times, Defendant Graham was a citizen of the United States and resident of the State of Colorado.

35. At all times relevant to this Complaint, Defendant John Camper was acting within the scope of his official duties and employment and under color of state law in his capacity as the Director of the CBI. At all relevant times, Defendant Camper was a citizen of the United States and resident of the State of Colorado.

36. At all times relevant to this Complaint, Defendant Chris Schaefer was acting within the scope of his official duties and employment and under color of state law in his capacity as a Deputy Director of Investigations at CBI.

At all relevant times, Defendant Schaefer was a citizen of the United States and resident of the State of Colorado.

37. At all times relevant to this Complaint, Defendant Kirby Lewis was acting within the scope of his official duties and employment and under color of state law in his capacity as the head of the Major Crimes Division of the CBI. At all relevant times, Defendant Camper was a citizen of the United States and resident of the State of Colorado.

38. At all times relevant to this Complaint, Defendant Kevin Koback was acting within the scope of his official duties and employment and under color of state law in his capacity as a CBI Agent. At all relevant times, Defendant Koback was a citizen of the United States and resident of the State of Colorado.

39. At all times relevant to this Complaint, Jason Hebrard was acting within the scope of his official duties and employment and under color of state law in his capacity as a CBI Agent. At all relevant times, Defendant Koback was a citizen of the United States and resident of the State of Colorado.

40. At all times relevant to this Complaint, Defendant Megan Duge was acting within the scope of her official duties and employment and under color of state law in her capacity as a CBI Agent. Defendant Duge was a citizen of the United States and resident of the State of Colorado.

41. At all times relevant to this Complaint, Defendant Caitlin Rogers was acting within the scope of her official duties and employment and under color of state law in her capacity as a CBI Agent. At all relevant times, Defendant Duge was a citizen of the United States and resident of the State of Colorado.

42. All of the above defendants are included in the collective reference, "Defendant CBI Agents."

### **E. "Officer Defendants" Federal Bureau of Investigation (Bivens Defendants)**

43. At all times relevant to this Complaint, Defendant Kenneth Harris was acting within the scope of his official duties and employment and under color of federal law in his capacity as an Agent with the Federal Bureau of Investigation ("FBI").

44. Defendant Harris personally participated in the conduct underlying the Claims against him. Defendant Harris helped draft the Arrest Affidavit and was personally aware of the falsehoods, material omissions, inaccuracies, and misleading statements.

45. Defendant Harris lied to and misled Barry Morphew during interviews with him.

46. Congress has provided no adequate remedy for the constitutional violations committed by Defendant Harris.

47. At all times relevant to this Complaint, Defendant Jonathan Grusing was acting within the scope of his official duties and employment and under color of federal law in his capacity as an FBI Agent.

48. Defendant Grusing personally participated in the conduct underlying the Claims against him.

49. Defendant Grusing helped draft the Affidavit for Arrest Warrant and was personally aware of the falsehoods, material omissions, inaccuracies, and misleading statements.

50. Defendant Grusing lied to and misled Barry Morphew during interviews with him.

51. Congress has provided no adequate remedy for the constitutional violations committed by Defendant Grusing.

52. Defendants Grusing and Harris are included in the collective reference, "Defendant FBI Officers."

## IV. FACTUAL ALLEGATIONS

### A. DISAPPEARANCE OF SUZANNE MORPHEW

53. Suzanne Morphew of Maysville, Colorado disappeared on May 10, 2020.

54. Barry and Suzanne Morphew have been married for more than 20 years. They have two daughters, Mallory, then 20-years-old and Macy then 16-years-old.

55. On May 10, 2020, Barry Morphew, who owned a landscaping business, went to Broomfield (a Denver, Colorado suburb) to prepare for a previously-contracted landscaping job to commence on May 11, 2020.

56. Barry last saw Suzanne in their bed sleeping around 5:00 a.m. on May 10, 2020, before he left to drive to Broomfield.

57. The daughters, Mallory and Macy, were on a road trip in Utah and planned to get home on May 10 or May 11, 2020.

58. On May 10, 2020, Barry Morphew and Mallory and Macy had been calling and texting Suzanne's phone numerous times, but she did not answer.

59. At approximately 3 p.m. on May 10, 2020, Barry Morphew called a neighbor to go to the Morphew home and look for Suzanne because he and his daughters had been unable to reach her.

60. The neighbors drove to the Morphew home and were unable to find Suzanne. They also did not see her mountain bike that she rode almost daily.

61. At approximately 5:30 p.m. Barry asked the neighbors to call the authorities while he packed up his things and drove from Broomfield to their home.

62. Shortly after law enforcement was contacted, on May 10, 2020, Chaffee County Sheriff's Deputies Damon Brown and Lamine Mullenax found a mountain bike off a dirt road, down a ravine, near the Morphew home.

63. Deputies Brown and Mullenax moved the bike from the location where it was laying in the ravine, up to the dirt road.

64. The Deputies had no cell reception and could not reach Barry on their cell phones.

65. Using their radio, they requested that emergency dispatch contact Barry Morphew while he was driving back to confirm that the bike they found matched the description of Suzanne's bike.

66. Barry confirmed the description matched Suzanne's bike.

67. Barry arrived from Broomfield two and a half hours later and wanted to help search for Suzanne.

68. As can be seen on law enforcement body-worn cameras, when Barry arrived, dozens of people were milling around the dirt road where Suzanne's bike was located.

69. Barry assisted law enforcement in finding an article of Suzanne's clothing from Suzanne's closet to use in a search for Suzanne.

70. As part of the emergency search and rescue operation to find Suzanne, an employee of the Colorado Department of Corrections (CDOC), Doug Spence.

71. Doug Spence gave the article of clothing provided by Barry to his scent dog ("Rosco") to smell Suzanne's scent, who was then deployed to the area near where Suzanne's bike was found.

72. Rosco alerted to Suzanne's scent and followed it down to a rushing river where Suzanne's scent then disappeared.

73. This fact was not disclosed in the Arrest Affidavit.

74. More search and rescue personnel were brought in to assist that evening.

75. Suzanne was never found.

76. A massive search, involving numerous law enforcement entities and volunteer community members from nearby Salida ensued for weeks following Suzanne's disappearance.

77. On May 13, 2020, Defendant Scott Himschoot, a Chaffee County Sheriff's Deputy, found Suzanne' bike helmet approximately 0.84 miles

northwest of the site the bicycle was found, approximately ten meters south of Highway 50 and about 1.52 miles from the Morphew residence.

78. Law enforcement suspected foul play and immediately targeted Barry Morphew as the perpetrator.

79. Barry is an avid hunter. Defendants accused him of "hunting" Suzanne the same way he "hunted" animals.

80. The Defendants' theory (as presented in the prosecution) was that while Barry Morphew was at work on a job site on the morning of May 9, 2020, Suzanne Morphew was at home communicating on her telephone with her secret, out-of-state lover.

81. Suzanne used WhatsApp and Linkedin, phone apps she installed on her phone to communicate with her lover.

82. For approximately two years prior to her disappearance, Suzanne had a secret, romantic affair with Jeff Libler, a man she knew from her high school in Indiana.

83. Suzanne reconnected with Libler on Facebook.

84. Libler lived in Michigan with his wife and children (who did not know about the affair).

85. Over the period of a year and half preceding Suzanne's disappearance, Suzanne and Libler would meet each other in different cities without the knowledge of their spouses, relatives, children or closest friends.

86. In early 2021, Defendants Grusing and Harris told Barry about Suzanne's affair.

87. Barry, like all of Suzanne's friends and family, was shocked to learn about the affair.

88. The Defendants theorized that on May 9, 2020, Barry arrived home from work around 2:30 p.m., chased Suzanne around the house, killed her using tranquilizer serum in a dart shot by a gun, disposed of her body and all evidence of the crime, and then created an alibi by going to Broomfield the next day, Sunday, May 10, 2020.

89. For weeks following Suzanne's disappearance, the Morphew residence, including vehicles parked in the garage were thoroughly searched with the use of K-9's and multiple crime scene investigators.

90. CCSD officers seized Barry's truck, Barry's phone, Suzanne's car, the car belonging to Macy Morphew, the phones of his daughters. .

91. The Defendant Officers took DNA samples from the Morphew home and items there, as well as from the bike, bike helmet, and vehicles belonging to Barry, Suzanne, and Macy.

92. Approximately nine days after the Morphew home was seized, Defendant Himschoot reported he found a plastic cap to what was believed to be a needle cover to a syringe, by itself at the bottom of the empty clothes dryer.

93. Defendant Himschoot had also been responsible for the search and collection of possible evidentiary items in the Morphew garage and the locked gun safe before finding the needle cover.

94. On at least sixty occasions between the time of Suzanne's disappearance and the day Barry was arrested, Barry voluntarily spoke with one or more of the Defendant officers.

95. Almost all of Barry's interactions with Defendant officers were secretly tape recorded, including one occasion in July 2020, on which Barry hosted Defendants Cahill and Graham for dinner at the Morphew home where they prayed to find Suzanne.

96. Barry's statements with Defendant Officers were also secretly recorded while Barry and Defendant officers handed out flyers in December 2020 at a local grocery store seeking the community's help in finding Suzanne.

97. The Defendants never got the confession from Barry that they were hoping for.

98. Barry was continuously searching for Suzanne and helping Defendant officers in the search.

99. In the summer of 2020, Defendant CBI Agents Megan Duge and Cailtlin Rogers, and the other Defendant CBI Agents determined foreign unknown male DNA was found on various items of the crime scene including: the exterior cushion of the bike helmet, Suzanne's bike seat, Suzanne's bike brakes and handlebars, Suzanne's bike grips, the carpet by the Morphew's bed, on a stair in the Morphew home, and on the back seat and the glovebox of Suzanne's Range Rover that was parked in the Morphew garage.

100. Barry Morphew, along with nearly sixty other investigative personnel working the scene and lay people who could have possibly been the source of the unknown male DNA, were excluded as sources of the DNA samples.

101. Defendant Cahill, a CBI Agent, was the lead CBI investigator assigned to assist local authorities in the investigation of Suzanne's disappearance.

102. In the fall of 2020, Defendant CBI Agent Cahill submitted a request that the CBI lab conduct forensic analysis of numerous items. He explained, "this unknown male profile was submitted … because [there is]

additional information to suspect the 2015 Range Rover was used in commission of a criminal offense."

103. Defendant CBI Agent Rogers determined the partial genetic profile warranted uploading the sample into CODIS, a national DNA database.

104. CODIS is the acronym for the Combined DNA Index System. CODIS contains DNA samples of convicted offenders nationwide, along with unknown samples from unsolved crimes and active investigations.

105. In October and November 2020, CBI Defendants Rogers and Duge were made aware of two CODIS matches to two different unsolved sex offenses in Arizona.

106. On December 4, 2020, Defendants Cahill, Burgess, Walker, Rohrich, Hysjulien, Grusing and Graham were made aware of one of the CODIS matches from an unsolved sex offense in Tempe, Arizona to the partial genetic DNA profile collected from Suzanne’s car.

107. In April 2021, Defendant CBI Agents Roger and Duge were made aware of another CODIS match from Suzanne’s Range Rover to another unsolved sex offense in Illinois.

108. This highly exculpatory information was not disclosed in the Affidavit for Arrest Warrant prepared by Defendants Walker, Stanley, Lindsey, Cahill, and other defendants and co-conspirators.

109. Barry was arrested on May 4, 2021 for the alleged murder of Suzanne.

110. Suzanne has still not been found.

111. On May 27, 2021, the judge ordered Defendant Prosecutors to ensure that all discovery mandated by the Colorado Rules of Criminal Procedure be produced to Barry by June 2, 2021.

112. On June 3, 2021, the judge issued a written discovery order commensurate with the verbal rulings made on May 27, 2021.

113. The judge also issued a written order that "any electronic communications created or received by law enforcement officers related to this case must be disclosed to the defense if they are material to the prosecution of the case or if they contain any evidence that would be in any way favorable to the defense."

114. As described below in this Complaint, Defendant Officers and Defendant Prosecutors did not comply with that Order.

115. On May 19, 2021, Defendant CBI Agent Duge sent Defendants CBI Agents Cahill, Burgess and Chris Adams a CODIS match letter via email indicating the unknown male DNA swabbed from the glovebox of Suzanne's Range Rover partially matched DNA found in three out-of-state unsolved sexual assault investigations in Tempe, Phoenix, and Chicago.

116. Defendant CBI Agent Duge’s May 19, 2021 letter stated that due to the “limited genetic profile” this was only a lead and further investigation was necessary.

117. “Limited genetic profile” is not a scientific term mentioned or accepted in the FBI CODIS manual.

118. Defendant Duge created this term.

119. Defendant Duge advised Defendants Stanley, Hurlbert, Lindsey, Walker, Spezze, Rohrich, Rogers, Graham, Cahill, Grusing and Harris that this was not a scientific term.

120. The Defendants knew the contents of Barry’s phone was searched for location data.

121. On June 2, 2020, Defendant Cahill was advised by FBI agents that certain GPS location data obtained from Barry’s phone was unreliable because of a phenomenon known as “static drift.”

122. Defendants utilized that unreliable data and did not disclose its unreliability in the Arrest Affidavit.

123. After January 2021, DA Defendants Stanley, Lindsey, and Walker conferred and met with each other about the Morphew investigation.

124. In April 2021, Defendant Walker circulated a draft Affidavit for Arrest Warrant (“Arrest Warrant Affidavit”) to numerous defendants,

including Defendant CBI Agents Cahill and Graham, Burgess, Rohrich, Grusing and Harris.

125. Defendants Cahill and Graham were highly critical of the affidavit and opposed the impending arrest of Barry, citing the need for more forensic testing, evidence collection, and review and analysis of the investigation and materials seized up to date.

126. In April 2021, Defendants Cahill and Graham raised their concerns with their immediate supervisor, Defendant Kirby Lewis, head of the Major Crimes Division of CBI who agreed with Defendants Cahill and Graham and conveyed the concerns to Defendant Deputy Director Chris Schaefer.

127. In late April 2021 to early May 2021, Defendant CBI Deputy Director of Investigations Schaefer contacted Defendant Sheriff Spezze and advised against arresting Barry at that time.

128. Shortly thereafter, Defendant CBI Director John Camper contacted Defendant Sheriff Spezze and reiterated the concerns with arresting Barry.

129. According to sworn testimony by Defendant Camper, it was the first time in his career that he ever called a sheriff about holding off on the decision to arrest an individual.

130. Defendants Spezze, Camper, Schaefer, Lewis, Cahill and Graham have each alleged that they did not inform Defendants Stanley, Lindsey or

Walker about the multiple calls Defendant Spezze received from Defendants Camper and Schaefer.

131. The sworn Arrest Affidavit dated May 4, 2021, does not contain information about the multiple calls made to Defendant Spezze or the serious concerns of CBI Defendants Camper, Schaefer, Lewis, Cahill and Graham to arrest Barry.

132. Barry was held in the Chaffee County jail without a bond until September 20, 2021.

133. On April 8, 2022, the judge issued a written discovery order sanctioning the Defendant Prosecutors for violating its May and June 2021 discovery orders.

134. The April 8, 2022 order ruled that the prosecutors concealed exculpatory information from the Arrest Affidavit.

135. All Defendants caused the Arrest Warrant to be issued despite knowing there was no probable cause.

136. All Defendants caused the murder and related charges to be brought despite knowing there was no probable cause.

137. No Defendant intervened to prevent the damage to Mr. Morphew, even though each had sufficient information and reasonably could have done so.

138. Had the Arrest Affidavit not contained false and misleading statements, there would have been no probable cause on the face of the Affidavit.

139. Had the Arrest Affidavit included exculpatory information that was omitted, there would have been no probable cause on the face of the Affidavit.

## B. THE ARREST AFFIDAVIT

140. Leading up and into early May, 2021, Defendant Walker, Defendant Prosecutors Stanley and Lindsey; Defendant CBI Agents Cahill and Lewis; Defendant Officers Rohrich, Spezze, and Graham; Defendant FBI Agents Grusing and Harris**,** and other Defendants and co-conspirators whose identities are not known to Mr. Morphew at this time, authored the Arrest Affidavit. See Arrest Affidavit pp. 2, 126.[1] (These Defendants are referred to herein as "Defendants authoring the Arrest Affidavit" or "Defendants who authored the Arrest Affidavit").

141. On May 4, 2021, Defendant Alex Walker signed the 129-page Arrest Affidavit.

142. Defendant Walker stated he had been "duly sworn" and that he "deposes and swears" to the Affidavit.

---

[1] In this Complaint, Mr. Morphew sets forth language from the Affidavit and provides page references for convenience. Mr. Morphew has attached the 129-page Affidavit to this Complaint. Mr. Morphew incorporates it by reference because blocking and copying all of its content into the Complaint would be impracticable. Wherever a fact is pertinent, Mr. Morphew has endeavored to quote the Affidavit herein.

143. Just above the signature line, Defendant Walker "affirm[ed] that this affidavit and warrant has been reviewed by [Defendants Stanley and Lindsey].

144. Judge Patrick Murphy signed the Affidavit, affirming that it was "[s]ubscribed and sworn to before me this 4th day of May 2021."

145. Even though only Defendant Walker subscribed and swore to the Arrest Affidavit, all Defendants identified above as "Defendants who authored the Arrest Warrant" personally participated in meetings and conversations and exchanged emails and other communications as participation in drafting of the Arrest Affidavit.

146. Defendant Walker affirmed that he prepared the case synopsis in the Arrest Affidavit "with the assistance of FBI Special Agent Jonathan Grusing" and that it "was edited and reviewed by [FBI Special Agent] Harris and CBI Agents Joseph Cahill and Derek Graham."

147. The Defendants' theory, as stated throughout the Arrest Affidavit, is that Barry killed Suzanne on the afternoon of May 9, 2020, by injecting her with animal tranquilizer shot from a tranquilizer gun as she ran around the home trying to get away from him.

148. Defendants theorized that Barry "staged" Suzanne's bicycle and helmet to divert attention from himself.

149. Barry's motive, according to Defendants, was jealousy and fear of Suzanne leaving him.

150. Defendants posited that Barry found out about Suzanne's affair with Libler and killed Suzanne in a rage.

151. On the afternoon of May 9, 2020, Suzanne sent a photo of herself via Linkedin to Libler, her lover.

152. In the Arrest Affidavit, Defendants suggested perhaps Barry learned about the affair at that time and perhaps that prompted him to kill Suzanne.

153. Defendants authoring the Arrest Affidavit also suggest that Barry knew of the affair long before May 9, 2020.

154. The Arrest Affidavit contained false and misleading statements and omitted exculpatory information.

155. Defendants authoring the Arrest Affidavit knowingly, recklessly, and maliciously omitted material, exculpatory information and included misleading and false information.

156. There was no probable cause to arrest Barry Morphew.

157. No Defendant intervened to ensure that the information in the Arrest Affidavit was true and that exculpatory information was included therein.

### *1. DNA Information*

158. The Affidavit failed to accurately inform the judge of the existence of unknown male DNA in various relevant places, CODIS matches between DNA found in the investigation and DNA found in other sex assault investigations in other states.

159. During pendency of the nearly year-long criminal murder case against Barry, and the following 11 months of litigation, the District Judge imposed sanctions against the prosecution in a written order which included the following finding:

> The Judge who found probable cause and set a no bond hold was not told that unknown foreign male DNA was found on various items at the crime scene or in the alleged victim's car at the time of signing the warrant for Mr. Morphew's arrest. See *Aff.*, at 44-45 (discussing CBI laboratory results related to DNA analysis of various items). If the Judge had known at the time of reviewing the arrest warrant about foreign unknown male DNA and CODIS matches to out-of-state cases, he may not have required Mr. Morphew to sit in jail for five months pending the PEPG and Hearings.[2]

160. Unknown DNA and unknown male DNA was found on (i) Suzanne Morphew's bedside, (ii) one of the stairs of the Morphew home, (iii)

---

[2] People v. Morphew, Fremont County No. 22 CR 47, *Order Re: [D-17] Defendant's Renewed Motion for Discovery and Contempt Sanctions and Forthwith Hearing; [D-17a] Supplement; [D-17b] Supplement; [D-17c] Supplement; and [D-17d] Supplement* (filed April 8, 2022), p. 12.

the sheets in the dryer, (iv) the bicycle grips, (v) the bicycle seat, (vi) the bicycle brakes and handlebars, (vii) Suzanne's bicycle helmet exterior, (viii) Suzanne's bicycle helmet interior cushions, (ix) the front driver door of Suzanne's car, (x) the front passenger door of Suzanne's car, (xi) the glove compartment of Suzanne's car, and (xii) the rear driver side seat cushion of Suzanne's car.

161. The Defendants authoring the Arrest Affidavit mentioned unknown DNA on only item (v) above, the bicycle seat.

162. During pendency of the criminal case against Barry, the State District Court Judge expressly found that "the foreign male DNA being found on pieces of evidence at the crime scene that would exclude Mr. Morphew…would tend to negate guilt."[3]

163. A swab taken from the glove compartment of Suzanne's car revealed that at least one unknown male contributed to the DNA profile.

164. The DNA from the glove compartment was tested against at least 70 profiles, including but not limited to the Morphew family and friends, many of the Defendants, CCSD investigators, and other law enforcement personnel.

---

[3] People v. Morphew, Fremont County No. 22 CR 47, Transcript of February 10, 2022, p. 94.

165. The DNA from the glove compartment did not match any one of at least 70 profiles, of people known to have been at or near Suzanne’s car, that it was tested against.

166. On October 12, 2020, Defendant CBI Agent Cahill submitted to Defendants CBI Agents Duge and Rogers his determination that not only he but also the CBI, the CCSD, and the 11th Judicial District Attorney's office all believed that Suzanne’s Range Rover was “used in the commission of a criminal offense connected to the disappearance of Suzanne Morphew.”

167. At the request of Defendant CBI Agent Cahill and Defendant FBI Agent Grusing the swab from the glove compartment of Suzanne’s car was submitted in October 2020 to CODIS.

168. In October 2020, Defendant CBI Agents Duge and Rogers knew there was a DNA match from the CODIS search between the swab from the glove compartment of Suzanne’s car and DNA recovered from an unsolved sex assault in Tempe, Arizona.

169. In November 2020, Defendants CBI Agents Duge and Rogers learned that there was a DNA match from the CODIS search between the swab from the glove compartment of Suzanne’s car to DNA recovered from an unsolved sex assault in Phoenix, Arizona.

170. Defendant CBI Agent Duge notified the labs in Tempe and Phoenix and referred them to Defendant Officer Burgess and Defendant CBI Agent Cahill for follow up investigation regarding the DNA matches.

171. On December 2, 2020, Defendant Officer Burgess received an email notifying him of the DNA match between the swab from the glove compartment of Suzanne's car and an unsolved sex assault in Tempe, Arizona.

172. Defendant Burgess notified Defendant Officers Walker, Hysjulien, Cahill, Graham, and Rohrich, Defendant CBI Agent Cahill, and other defendants and co-conspirators (including other named and/or unnamed defendants and co-conspirators whose identities are not yet known to Mr. Morphew).[4]

173. In April 2021, Defendants CBI Agents Duge and Rogers were notified that there was a DNA match between the swab from the glove compartment of Suzanne's car and an unsolved sexual assault in Chicago, Illinois.

174. Defendants CBI Agents Duge and Rogers knew about these matches but claimed they intentionally withheld the Phoenix and Illinois matches to Defendants authoring the Arrest Affidavit.

---

[4] Mr. Morphew's counsel have a good faith basis to believe that other Defendant Officers and Defendant CBI Agents would have had to be involved. Mr. Morphew believes that discovery will reveal the identity of these as-yet unknown Defendants.

175. The Arrest Affidavit does not include any information about the threeDNA matches described above in paragraphs __ through ___. ("the three DNA matches").

176. Barry was arrested on May 4, 2021 on murder and related charges.

177. All the Defendants knew on or around May 4, 2021 that Barry was arrested on murder and related charges.

178. CBI Agents Duge and Rogers issued a document titled "CODIS DNA Casework Match," dated May 19, 2021, addressed to Defendant CBI Agents Cahill and Adams and Defendant Officer Burgess.

179. The Defendants authoring the Arrest Affidavit did not amend the Arrest Affidavit to include the information about the three DNA matches.

180. Defendants authoring the Arrest Affidavit stated that there was no evidence of any alternate suspect.

181. The statements that there was no evidence of an alternate suspect were false and misleading. The unknown male DNA discovered in the Morphew home, vehicles, bicycle and bicycle helmet, in addition to the three CODIS matches, constituted evidence of alternate suspects.

182. All Defendants knew that Suzanne's car was used in the commission of a criminal offense connected to the disappearance of Suzanne Morphew.

183. All Defendants knew unknown DNA had been found and DNA had been submitted to CODIS.

184. None of the Defendants with knowledge of the three DNA matches and the unknown DNA intervened to ensure that this exculpatory DNA information was included in the Arrest Affidavit before it was presented to the Court.

185. Defendants authoring the Arrest Affidavit included information about DNA that was misleading, incomplete, and false.

186. The Arrest Affidavit states that Mallory Morphew was a "low level" contributor to a DNA sample found on a dart in a box found in the garage.

187. The affidavit failed to include anyone else as a DNA contributor to the dart in a box found in the garage. This was false and incomplete. (Arrest Affidavit, p. 45).

188. There was another potential contributor – Deputy Scott Himschoot, who was an equally likely "low level" contributor according to the laboratory reports.

189. The Affidavit does not disclose that both Barry and Suzanne were excluded as possible contributors to the DNA sample from the dart in a box found in the garage.

190. The Affidavit identified Suzanne and Macy as possible low level contributors to the DNA profile collected from the plastic hypodermic needle cover ("needle cover") recovered from the dryer. (Arrest Affidavit, p. 45).

191. This statement was false. Suzanne was not a possible contributor to the swab from the needle cover.

192. The DNA report states that the potential contributors to the swab from the needle cover include two of three people: (1) Defendant Alex Walker, (2) a male friend of both Suzanne and Barry, and (3) Macy Morphew.

193. The Arrest Affidavit does not include the fact in the previous paragraph.

194. The fact that Defendant Walker may have handled the needle cover is exculpatory, as it demonstrates that Walker knew what the item was and had examined it.

195. The Arrest Affidavit identifies the needle cover as a "dart cap."

196. The needle cover was not a "dart cap."

197. Defendant Walker knew the needle cover was not a "dart cap."

198. The Arrest Affidavit stated that a partial DNA profile was developed from the interior cushions of Suzanne's bike helmet and that it was more likely to be a mixture of the DNA of Barry and Suzanne than of any other people.

199. A DNA swab from the outside of the bike helmet revealed DNA from Suzanne and an unknown male.

200. The Arrest Affidavit did not disclose the results of the swab of the exterior of the bike helmet. It did not disclose the existence of unknown male DNA on the exterior of the bike helmet.

201. The Arrest Affidavit stated that DNA on the bicycle grips excluded Barry as a contributor.

202. The Arrest Affidavit did not disclose all the results of the swab from the bicycle grips. It did not disclose the existence of 2 unknown profiles on the bicycle grips.

203. The Arrest Affidavit stated that Barry was excluded as a contributor on the bicycle brakes and handlebars, and that Suzanne, Deputy Brown and Deputy Himschoot were primary contributors.

204. The Arrest Affidavit did not disclose all the results of the swab from the bicycle brakes and handlebars. It did not disclose the existence of at least one unknown male profile on the bicycle brakes and handlebars.

205. The Affidavit states: “These items [Suzanne’s bicycle and helmet] were not indicative of Suzanne being a runaway or the victim of a stranger abduction.” Arrest Affidavit, p. 2.

206. That statement is false as there was unknown foreign DNA found on the bicycle and the helmet, which was indicative of a stranger handling her bicycle helmet and bicycle. The unknown foreign DNA tends to prove an abduction, contrary to the Arrest Affidavit's theory that the bike and helmet were "staged."

207. The Defendants who authored the Arrest Affidavit knew the statement in paragraph 205 was not true.

208. The Defendants who authored the Arrest Affidavit included a section labeled "Ongoing Investigation." Arrest Affidavit, p. 122.

209. That section says nothing about the ongoing investigation into the unknown male DNA and CODIS matches.

210. The state court judge presiding over the state criminal prosecution later entered a finding that "[i]n all the information included in the 129 page affidavit, the affidavit was devoid of any discussion of the fact that foreign male DNA, not belonging to Mr. Morphew, was found all over the crime scene: on the bike helmet, bike seat, bike breaks, glovebox of her car and rear seat of car. *See Aff. generally.*"

211. The above false and misleading information about DNA and omitted exculpatory information about DNA were material to a finding of probable cause.

212. The omission of the exculpatory facts as described above and throughout this Complaint about DNA was material to a finding of probable cause.

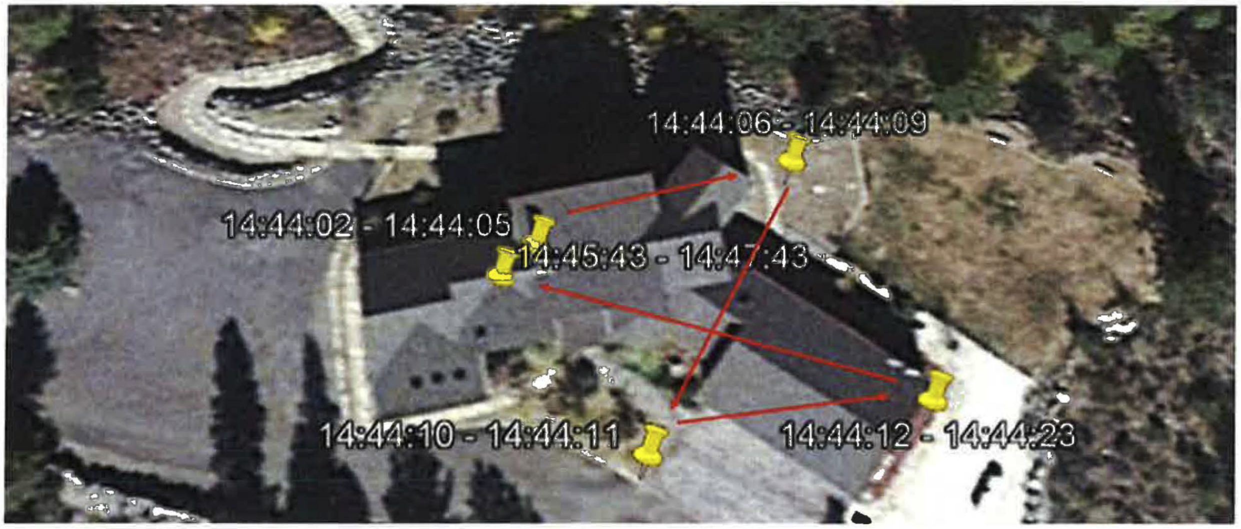
213. Had the above false and misleading information about DNA been omitted and the exculpatory information about unknown male DNA, unknown DNA, the CODIS matches, and the DNA information described above been included, it would have vitiated and diluted probable cause, singularly and in combination with the other misconduct described in this Complaint.

### *2. False GPS Phone Locations - "Pushpin" Map*

214. The Arrest Warrant Affidavit states that Barry chased Suzanne Morphew around their home on May 9, 2020 at 2:44-2:45 p.m. Arrest Affidavit, p. 126.

215. The Arrest Affidavit claims this is the time period when Barry allegedly caused the death of Suzanne.

216. The Arrest Affidavit includes "Attachment 6", which is described as "An estimate of the activity of Barry's phone as it appears to move from porch to porch, which he [Barry] explained by chasing and shooting a chipmunk." The following image was presented:



217. Defendants authoring the Arrest Affidavit knew this was a false and misleading allegation.

218. Defendants knew this was false and misleading because an FBI Report ("the CAST Report") alerted them to this fact and an FBI Specialist had alerted Defendant Cahill of this in an email, as described below.

219. The above pushpin map, if believed, would mean that Barry was moving 36.8 to 50 miles per hour from point to point, through the walls of his home.

220. If Barry was moving around the walls of his home he would have had to travel even faster than 50 miles an hour.

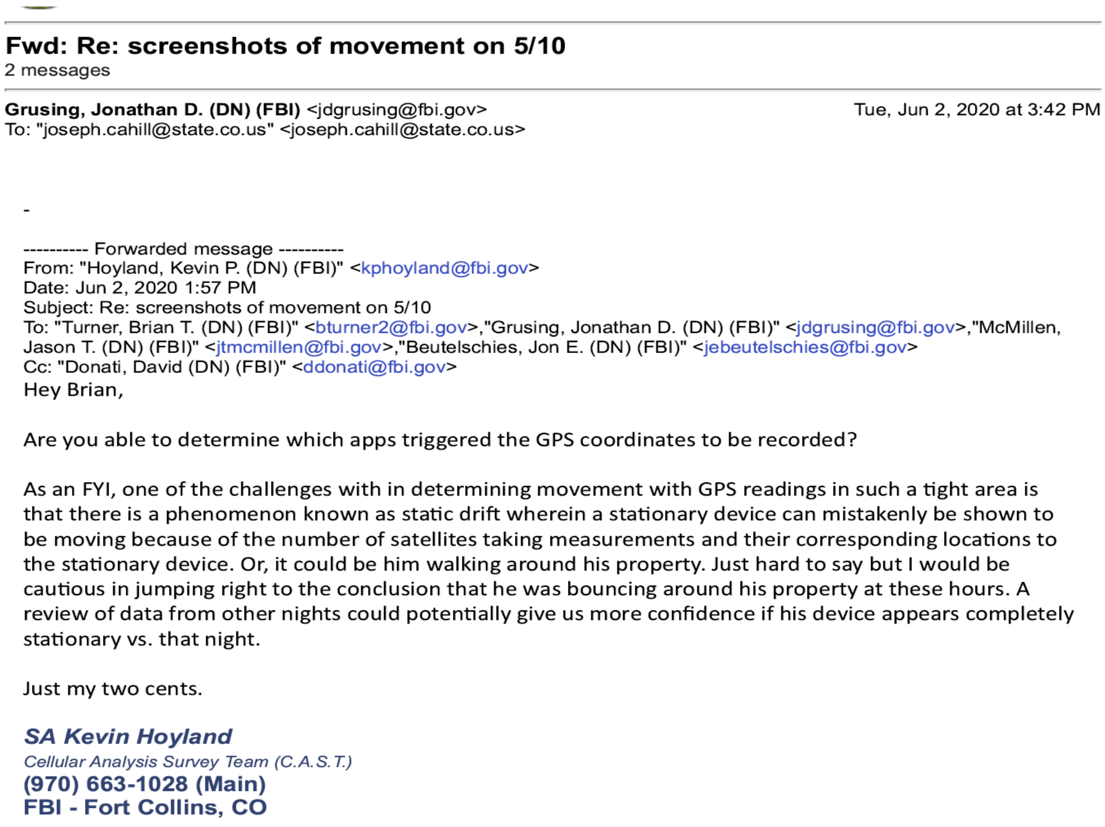
221. On June 2, 2020, Defendants Cahill and Grusing learned from FBI Special Agent Hoyland that "data" used to "pinpoint" Barry's movements was unreliable.

222. FBI Special Agent Kevin Hoyland was with the FBI's Cellular Analysis Survey Team (C.A.S.T.), which interpreted data from Barry's cell phone.

223. Special Agent Hoyland wrote:

> "As an FYI, one of the challenges in determining movement with GPS readings in such a tight area is that there is a phenomenon known as static drift wherein **a stationary device can mistakenly be shown to be moving** because of the number of satellites taking measurements and their corresponding locations to the stationary device. Or it could be him walking around the property. Just hard to say but **I would be cautious in jumping right to the conclusion that he was bouncing around his property at these hours**."

224. The complete June 2, 2020, email from FBI Hoyland is:



**Fwd: Re: screenshots of movement on 5/10**
2 messages

**Grusing, Jonathan D. (DN) (FBI)** <jdgrusing@fbi.gov> Tue, Jun 2, 2020 at 3:42 PM
To: "joseph.cahill@state.co.us" <joseph.cahill@state.co.us>

-

---------- Forwarded message ----------
From: "Hoyland, Kevin P. (DN) (FBI)" <kphoyland@fbi.gov>
Date: Jun 2, 2020 1:57 PM
Subject: Re: screenshots of movement on 5/10
To: "Turner, Brian T. (DN) (FBI)" <bturner2@fbi.gov>,"Grusing, Jonathan D. (DN) (FBI)" <jdgrusing@fbi.gov>,"McMillen, Jason T. (DN) (FBI)" <jtmcmillen@fbi.gov>,"Beutelschies, Jon E. (DN) (FBI)" <jebeutelschies@fbi.gov>
Cc: "Donati, David (DN) (FBI)" <ddonati@fbi.gov>
Hey Brian,

Are you able to determine which apps triggered the GPS coordinates to be recorded?

As an FYI, one of the challenges with in determining movement with GPS readings in such a tight area is that there is a phenomenon known as static drift wherein a stationary device can mistakenly be shown to be moving because of the number of satellites taking measurements and their corresponding locations to the stationary device. Or, it could be him walking around his property. Just hard to say but I would be cautious in jumping right to the conclusion that he was bouncing around his property at these hours. A review of data from other nights could potentially give us more confidence if his device appears completely stationary vs. that night.

Just my two cents.

***SA Kevin Hoyland***
*Cellular Analysis Survey Team (C.A.S.T.)*
**(970) 663-1028 (Main)**
**FBI - Fort Collins, CO**

225. As shown above, Agent Grusing forwarded the email to Defendant Cahill the same day he received it.

226. At page 27 of the CAST Report, the FBI illustrates the phenomenon of static drift and cautions that "[m]ore analysis is needed to determine the frequency of such anomalous data in and around the residence."

227. This critical exculpatory information showed that the Arrest Affidavit statements about Barry supposedly having been moving rapidly around his property were purposely misleading.

228. Defendants authoring the Arrest Affidavit knew this information was highly material and exculpatory.

229. This exculpatory information was purposely omitted from the Arrest Affidavit and the email was concealed from the defense and the court.

230. The Defendant Prosecutors concealed this June 2020 email until it was produced in late January 2022.

231. The Arrest Affidavit included false and misleading statements about GPS phone location data allegedly showing where Barry drove his truck in the early morning hours of May 10, 2020.

232. In the Arrest Affidavit, Defendants stated that Barry's truck drove nearby where Suzanne's bicycle helmet was later discovered.

233. Defendants' theory was that Barry intentionally discarded Suzanne's helmet in that location in order to "stage" an abduction.

234. Defendants authoring the Arrest Affidavit knew that the GPS phone locator detail was unreliable because of the "static drift" phenomenon.

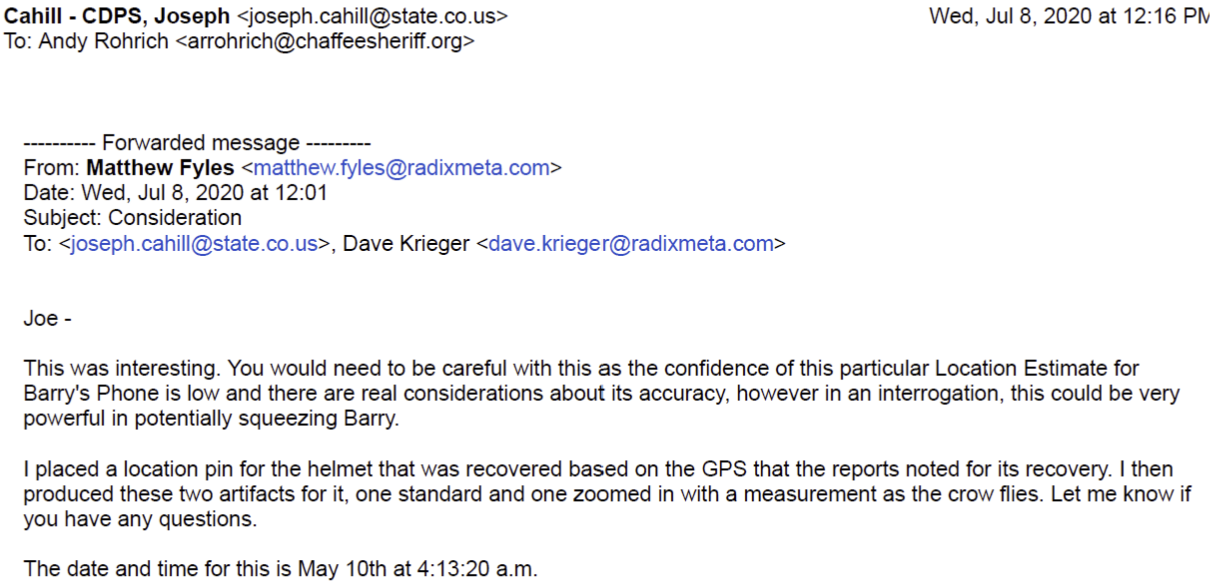
235. Defendants authoring the Arrest Affidavit also knew that there were no truck telematics[5] indicating the truck was in that area between May 9 and May 10.

236. Defendant Cahill expressly warned other Defendants and co-conspirators about the unreliability of such data, including Defendants Graham, Rohrich, Lindsey, Walker, Grusing, and Harris.

237. Defendant Cahill received a recommendation from a technical engineering firm that, even though inaccurate and unreliable, the GPS location data could be used to "squeeze" Barry during interrogations. Defendant Cahill forwarded this recommendation to Defendant Rohrich:

---

[5] "Telematics"is a term describing technology whereby a computer within automobiles and trucks can capture events occurring in and around the vehicle, e.g., doors and windows opening and closing, the motor running and being shut off, etc. and essentially provide a digital blueprint of the vehicle's activity.



**Cahill - CDPS, Joseph** <joseph.cahill@state.co.us> Wed, Jul 8, 2020 at 12:16 PM
To: Andy Rohrich <arrohrich@chaffeesheriff.org>

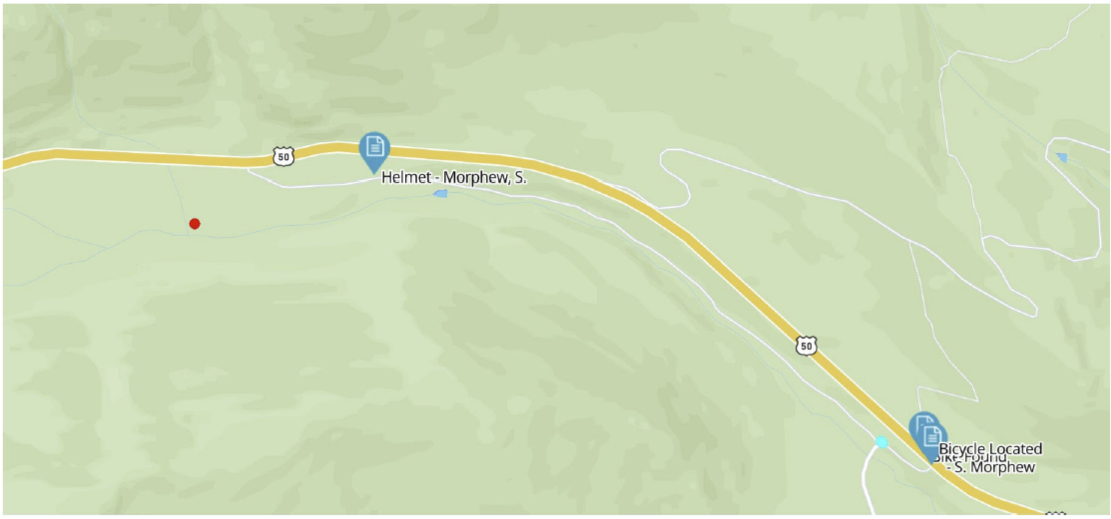
---------- Forwarded message ---------
From: **Matthew Fyles** <matthew.fyles@radixmeta.com>
Date: Wed, Jul 8, 2020 at 12:01
Subject: Consideration
To: <joseph.cahill@state.co.us>, Dave Krieger <dave.krieger@radixmeta.com>

Joe -

This was interesting. You would need to be careful with this as the confidence of this particular Location Estimate for Barry's Phone is low and there are real considerations about its accuracy, however in an interrogation, this could be very powerful in potentially squeezing Barry.

I placed a location pin for the helmet that was recovered based on the GPS that the reports noted for its recovery. I then produced these two artifacts for it, one standard and one zoomed in with a measurement as the crow flies. Let me know if you have any questions.

The date and time for this is May 10th at 4:13:20 a.m.



238. Defendants FBI Agents Grusing and Harris lied to Barry about the alleged phone location data during the numerous interrogations with him.

239. Upon information and belief, these interrogations were conducted and/or reviewed and utilized by Defendants Cahill, Graham, Walker, Rohrich, Spezze, Stanley, Lindsey, and other defendants and co-conspirators as described herein, all of whom knew that false and misleading information was being

presented in the Affidavit and that material, exculpatory information was being omitted.

240. Defendants authoring the Arrest Affidavit, and other Defendants and co-conspirators whose identities are not known to Mr. Morphew at this time, included false information in the Arrest Affidavit garnered from lying to Barry about his movements on the day on May 10, 2020.

241. The Defendants stated in the Arrest Affidavit that Barry was "blaming…. a chipmunk for why he was running around his house after arriving home at 2:44 PM, and the firing a gun of a .22 caliber to describe his violence towards Suzanne that afternoon and the caliber of the tranquilizer darts." Arrest Affidavit, p. 125.[6]

242. The Arrest Affidavit does not disclose that the map and the GPS phone data underlying it were fabricated and not based on any reliable science.

243. The "pushpin map" was not the only subject matter in the Arrest Affidavit that relayed false and misleading information about alleged locations of Barry's phone based on GPS location data.

244. On page 34 and 35, the Arrest Affidavit states:

> The location activities registered by Barry's phone were abnormally high in frequency during the late nights and early morning hours of May 8-9, 2020 and

---

[6] The issues regarding the "caliber of the tranquilizer darts" is a separate set of facts and falsehoods inserted into the Arrest Affidavit and are discussed elsewhere in this Complaint.

> May 9-10, 2020 while at the Morphew residence. (Arrest Affidavit, p. 34)
>
> …
>
> That May 9-10, 2020 night, approximately 210 locations for Barry's phone registered near the Morphew residence, compared to zero-to-two locations on previous nights from May 1st through May 8th. (Arrest Affidavit, p. 35).

245. Just as above, when the Defendants who authored the Arrest Affidavit wrote these statements, they knew they were false and misleading and knew the GPS location data from Barry's phone (or any phone) was unreliable.

246. In relevant part, the Arrest Affidavit states: (1) "Barry blamed… a chipmunk for why he was running around his house after arriving home at 2:44 PM…" (Arrest Affidavit, p. 125) and (2) "Barry says he is running around the house, most likely chasing Suzanne while she is conscious." (Arrest Affidavit, p. 126).

247. That is false. Barry did not "blame" a chipmunk, he did not say "he is running around the house," and certainly did not say he was "most likely chasing Suzanne…"

248. When confronted with the fabricated "pinpoint" map, Barry merely said that he was in the habit of shooting chipmunks.

249. In making that statement, Barry was responding to fictitious and false information being provided to him by Defendants about his supposed movements on May 9, 2020.

250. The above false and misleading information about GPS phone locations and omitted exculpatory information about GPS phone locations were material to a finding of probable cause.

251. The omission of the exculpatory facts as described above and throughout this Complaint about GPS phone locations was material to a finding of probable cause.

252. Had the above false and misleading information about GPS phone locations been omitted and the exculpatory information about GPS phone locations been included, it would have vitiated and diluted probable cause, singularly and in combination with the other misconduct described in this Complaint.

### *3. Falsehoods and Omissions about Barry's Phone on May 9, 2020*

253. The Defendants who authored the Arrest Affidavit stated that forensic evidence showed that Barry's phone was turned off or placed on "airplane mode" for 8 hours on May 9, 2020 starting at 2:47 p.m.

254. Defendants authoring the Arrest Affidavit included the "airplane mode" assertingBarry purposefully placed his phone in airplane mode in order to conceal his location while he was hiding Suzanne's body and evidence of the alleged murder.

255. The Arrest Affidavit alleges that Barry arrived home on Saturday afternoon around 2:30 p.m., at 2:44 p.m. he chased Suzanne around the house, and at 2:47 p.m. he placed his phone in airplane mode.

256. The Arrest Affidavit alleges that Barry intentionally kept his phone in airplane mode throughout the evening until Saturday night at 10:30 pm. Arrest Affidavit, pp. 77, 90, 99.

257. The Arrest Affidavit states: "On May 9th, at 2:47 PM, Barry's phone appears to enter Airplane Mode" (Arrest Affidavit, p. 34).

258. The Arrest Affidavit states: and "On May 9th, at 10:17 PM, an 'airplane mode off' event started on Barry's phone" Arrest Affidavit, p. 35.

259. Defendants authoring the Arrest Affidavit mentioned "airplane mode" 24 times in the Affidavit.

260. It is false that the phone was in airplane mode for eight (8) hours as represented by the Defendants authoring the Arrest Affidavit.

261. On June 24 and 25, 2020, Defendants Walker, Cahill, Grusing, Adams, Hysjulien, Burgess and Rohrich, received or were forwarded an email and a chart from a FBI expert that explained the airplane mode phenomenon.

262. The June 24, 2020 email and chart explained that Barry's phone was not in airplane mode for even one hour, nor intentionally placed in airplane mode, and if it was in airplane mode it was for less than a minute and when the phone was powering down or powering up.

263. The Defendants who authored the Arrest Affidavit did not disclose these highly exculpatory facts in the June 24, 2020 FBI email and chart but instead inserted only the 24 false and misleading statements about the "airplane mode."

264. The Defendants concealed this June 24, 2020 email and chart analyzing the airplane mode phenomenon from the defense until late January 2022.

265. During Defendants Grusing and Harris' interviews with Barry in March and April 2021, Defendants Grusing and Harris lied to Barry telling him that he intentionally placed his phone in airplane mode for hours on May 9th to prevent detection of his movements.

266. The Defendants who authored the Arrest Affidavit stated "Barry admitted to running around their property with a gun and placing his phone in Airplane Mode at 2:47 PM." Arrest Affidavit, p. 2.

267. That is a false statement.

268. On page 75 of the Arrest Affidavit, it states that Barry "demonstrated how he placed his phone in Airplane Mode." This statement is misleading and included out of context.

269. On March 5, 2021, during the (approximate) 30th interview of Mr. Morphew, FBI Agent Grusing (Grusing) told Barry that his phone was in airplane mode on May 9, 2020, to which Barry told him he did not recall putting his phone in airplane mode.

270. Defendant Grusing then told Barry that his phone was definitively in airplane mode from 2:47 p.m. to 10:18 p.m. on May 9, 2020, and added that if Barry accidentally put his phone on airplane mode, then he also must have accidentally turned it off, questioning Barry's veracity.

271. In response to these statements, Barry told Defendant Grusing, "It's the first thing that comes up when you hit settings. If that happened, it was probably an accident. I do not recall that."

272. The Defendants authoring the Affidavit inserted these false and misleading statements about Barry intentionally putting his phone in airplane

mode for eight hours as it was critical to sell their false theory that Barry was attempting to cover up his location, after he supposedly murdered Suzanne right after supposedly chased her around the house at 35-50 miles per hour to subdue her.

273. Furthermore, the Defendants authoring the Arrest Affidavit knew that the area in Colorado – specifically in and around the Morphew home, and the Maysville area to Poncha Springs had virtually no cell phone reception and cellular data is scant and imprecise

274. The Defendants authoring the Arrest Affidavit did not include the exculpatory facts that there is little to no cell reception and the cellular data collected from the area of Barry's home and Maysville is imprecise.

275. The Defendants authoring the Arrest Affidavit omitted these exculpatory facts as it would have significantly weakened their theory that Barry murdered Suzanne as their theory was largely based on the "alleged" movements of Barry's phone.

276. The Arrest Affidavit states that Barry's phone contained "deleted web searches" of pornographic and/or dating sites on January 7, 8, 24, and 25, 2020. Arrest Affidavit, pp. 32-33.

277. By referring to these as “deleted web searches on Barry’s phone,” the Arrest Affidavit implies that Barry was actively searching and/or visiting these sites.

278. This statement was false. These were not manual searches or even visits made to these sites, rather (similar to a pop-up advertisement), his phone was redirected to these sites.

279. The Defendants either knew this inflammatory and irrelevant information was false or utterly failed to conduct a reasonable forensic investigation that would have readily disclosed the true facts.

280. In a footnote, the Defendants authoring the Arrest Affidavit quote Barry’s response when asked if he had ever searched online to meet other women (he replied, “No, never”). Arrest Affidavit, p. 33, footnote 38. Because the true facts had been omitted, the Arrest Affidavit makes it look like Barry was lying, when in fact he was telling the truth and a reasonable forensic investigation would have readily revealed that.

281. The Arrest Affidavit claims Barry had a second cell phone that was not located. “Possible Second Device for Barry.” Arrest Affidavit, p. 42.

282. This statement was false.

283. The Defendants authoring the Arrest Affidavit knew this statement was false as the 2020 Search Warrant Return from Apple provided information to show that was not correct.

284. The Defendants authoring the Arrest Affidavit knew from the 2020 Search Warrant Return from Apple that the “second device” identifier is not a second “device” or phone, but instead likely identifies that Barry and Suzanne’s iPhones were connected to the same iCloud account for a while.

285. This falsehood is significant and material because of the implication that Barry was lying, concealing material evidence, and otherwise behaving in a culpable manner.

286. The numerous false and misleading statements in the Arrest Affidavit described above about Barry’s phone, and the omissions of exculpatory facts, are incorporated by reference.[7]

287. The above false and misleading information and omitted exculpatory information about Barry’s phone were material to a finding of probable cause.

---

[7] To repeat all of the false and misleading statements and omissions of exculpatory facts set forth in this Section would be voluminous and is unnecessary to provide additional notice to Defendants. Mr. Morphew incorporates throughout this Complaint into each section, subsection and claim all of the other information wherever it appears in the Complaint.

288. The omission of the exculpatory facts as described above and throughout this Complaint about Barry's phone was material to a finding of probable cause.

289. Had the above false and misleading information about Barry's phone been omitted and the exculpatory information about Barry's phone been included, it would have vitiated and diluted probable cause, singularly and in combination with the other misconduct described in this Complaint.

### ***4. False and Misleading Statements about Suzanne's Phone, Computer and Facebook Account***

#### a. Suzanne's Phone

290. Defendants Cahill, Lindsey, Walker, and Stanley purposely omitted material exculpatory facts from and made false statements in the Arrest Affidavit concerning Suzanne's phone activity on May 9th and 10th, 2020.

291. In the summer of 2020, Defendants Walker, Cahill, Burgess, Hysjulien, Rohrich, Graham, Lindsey, Stanley, and Grusing (and other named and/or unnamed defendants and co-conspirators whose identities are not yet known to the Mr. Morphew) received the FBI's CAST Report dated June 14, 2020.

292. The CAST Report documents that Suzanne's phone and computer showed activity long after the time the Arrest Affidavit states Suzanne was killed.

293. According to the Arrest Affidavit Defendants claim that Suzanne was killed on May 9, 2020 at approximately 2:45 p.m.

294. The CAST Report documented that Suzanne's phone was making and/or receiving calls late in the evening on May 9, 2020, and in the early morning hours of May 10, 2020.

295. Defendants Walker, Cahill, Burgess, Hysjulien, Rohrich, Graham, Lindsey, Stanley, and Grusing were aware of this information.

296. The Arrest Affidavit states that on May 9, 2020, "There is no phone activity for Suzanne after 2:30 p.m." (Arrest Affidavit, p. 126).

297. That statement in the Arrest Affidavit is false.

298. There was phone activity on Suzanne's phone later on May 9th and in the early morning hours of May 10th.

299. Defendants who authored the Arrest Affidavit stated: "There are no electronic records of Suzanne communicating by any means with anyone after 14:11[8] on May 9, 2020 when she sent her last message by Linkedin to Jeff Libler." Arrest Affidavit, p. 5.

---

[8] The notation "14:11" is military time for "2:11 p.m."

300. That statement by Defendants is false.

301. Defendants Grusing and Harris met with Libler in November 2020 in Michigan.

302. Defendants Grusing and Harris told Libler they would “protect” him.

303. Defendants Grusing and Harris asked Libler how he managed to hide the secret affair with Suzanne from the FBI for so long.

304. Libler explained to Defendants Grusing and Harris that Suzanne and Libler used secret Linkedin and WhatsApp accounts so they could communicate surreptitiously and talk without a record of their communications.

305. Libler explained that Suzanne and Libler would both send text messages, voice messages, and talk to each other on the WhatsApp phone app, and would just send messages on LinkedIn.

306. Libler told Defendants Grusing and Harris, who already knew that WhatsApp communications are encrypted and would be impossible to recover unless Libler saved his account.

307. When questioned by Defendants Grusing and Harris, Libler claimed that immediately after Suzanne’s disappearance, he dropped his phone damaging the face plate, he got a new phone and the old one was gone.

308. When questioned by Defendants and Grusing about getting access to his secret LinkedIn and WhatsApp accounts, Libler stated he deleted his communications with Suzanne on both "Linkedin" and "Whatsapp" before law enforcement was able to search his phone or obtain a search warrant for the records.

309. Libler advised Defendants and Grusing he deleted his communications with Suzanne on LinkedIn and WhatsApp because he did not want Suzanne's daughters, his wife, Barry, or his employer to find out about their affair.

310. The Defendants who authored the Affidavit omitted the facts that they told Libler he was "protected", and that that Libler intentionally deleted his secret LinkedIn and WhatsApp accounts and communications with Suzanne because he did not want to be discovered by his family, work or Barry or Barry's family.

311. When questioned by Defendants Grusing and Harris, Libler provided Suzanne's secret LinkedIn and WhatsApp profile names.

312. In December 2021, Defendant Walker obtained a search warrant for both Libler and Suzanne's WhatsApp and LinkedIn records, but only communications on Suzanne's secret LinkedIn account for the 30 days prior to Suzanne's disappearance were recovered.

313. The Arrest Affidavit citing only a portion of Suzanne's LinkedIn search warrant return states: "Suzanne did not respond to Libler's return messages at 2:44 p.m. and 2:46 p.m.…."

314. The Arrest Affidavit also states that the lack of phone activity for Suzanne after 2:30 p.m. on May 9, 2020 "is out of the norm for her typical behavior and an *abrupt* end following her 59 communications with Jeff Libler that morning and afternoon." (Arrest Affidavit, p. 126; emphasis added).

315. Those statements are false because Suzanne's phone did show activity late on May 9th and early on May 20, 2020.

316. Those statements are purposely misleading as they imply that the communication was abruptly terminated by Suzanne.

317. It was not "abrupt" and not terminated by Suzanne.

318. Jeff Libler sent a text via LinkedIn to Suzanne at 2:39 p.m. on May 10th, 2020, ending their communications that day because his family arrived home and he was no longer alone.

319. The Defendants who authored the Arrest Affidavit omitted the LinkedIn message Libler sent Suzanne a message at 2:39 p.m. that stated, "My crew is back. Well half of them."

320. The Arrest Affidavit statement is purposely misleading and false as it does not include this 2:39 p.m. message from Libler to Suzanne that members

of his family had arrived home and he was no longer available to continue their secret chat.

321. This message from Libler proves that it was Libler who ended their secret chat and not Suzanne being interrupted by Barry chasing her around the house at 35-50 miles an hour as the Defendants wanted the court to surmise.

322. It was also misleading to claim Suzanne abruptly ended their communication.

323. Libler deleted his WhatsApp account in May of 2020 immediately after Suzanne disappeared, and in November 2020 when questioned he did not remember if he and Suzanne communicated via WhatsApp after 2:40 p.m.

### b. Suzanne's Computer

324. Defendants Cahill, Lindsey, Walker, and Stanley purposely omitted material exculpatory facts from and made false statements in the Arrest Affidavit concerning Suzanne's computer activity.

325. In February 2021, Defendant Cahill received a forensic report documenting activity on Suzanne's computer.

326. The forensic report showed that Suzanne was on password protected sites to which only she would have had access.

327. The report showed that Suzanne was on her private Pinterest account late into the night of May 9, 2020, many hours after the Arrest Affidavit stated that she had been killed.

328. Defendants Cahill, Graham, Lindsey, Walker, Stanley, Grusing and Harris were aware of this report.

329. Defendants Cahill, Graham, Lindsey, Walker, Stanley, Grusing and Harris purposely omitted this material, exculpatory information from the Arrest Affidavit.

### c. Suzanne's Facebook

330. Defendants Cahill, Graham, Lindsey, Walker, Stanley, Grusing and Harris purposely omitted material exculpatory facts from and made false statements in the Arrest Affidavit concerning Suzanne's Facebook activity.

331. The Arrest Affidavit states that, at 11:14 a.m. on May 9, 2020, Suzanne received a message from Facebook on her phone stating that her password had been reset. Arrest Affidavit, p. 34:

> On May 9, 2020 at 11:14 AM, Suzanne's phone received a second password reset message from Facebook. Shortly after 11:15 AM, Barry's phone traveled west on HWY 50, arriving at the Morphew residence at around 11:27 AM.

332. Defendants who authored the Arrest Affidavit also stated that Barry “pretended” to be Suzanne when he logged onto her Facebook Account and initiated “friend requests” with 23 people (20 males and 3 females). Arrest Affidavit, p. 31, 101.

333. These statements are false, misleading, and omit material information.

334. Defendants obtain records of Suzanne’s Facebook account.

335. The records from Suzanne’s Facebook account reveal that Suzanne changed her password on Friday night, May 8, 2020, and then initiated some Facebook friend requests.

336. The records from Suzanne’s Facebook account also reveal that, on May 9, 2020, Suzanne logged into Facebook at 11:11 a.m., changed her password again at 11:18, and logged off of Facebook at 11:23 a.m.

337. Suzanne could not have changed her password on the morning of May 9th unless she knew the current password - which she had changed on the night of May 8th.

338. Barry was in his truck driving at 11:11, the time the password was changed on May 9th and therefore he could not have reset the password.

339. The Defendants who authored the Arrest Affidavit knew Barry was driving throughout the times the password was changed.

340. The Defendants who authored the Arrest Affidavit knew that Suzanne Morphew made the friend requests on Facebook, not Barry.

341. Suzanne was intentionally on Facebook on May 9, 2020, at a time she knew Barry was not home.

342. Some of these Facebook friend requests were initiated and accepted between 8:00 a.m. and 12:00 p.m. on Saturday, May 9, 2020, during a time when Barry was at work.

343. Suzanne was receiving alerts via SMS messages on her phone when people accepted her friend requests.

344. Defendants knew Suzanne had her phone and was receiving these alerts.

345. Defendants knew Barry arrived at work on May 9, 2020 at 7:30 a.m., and knew that he was continuously at work during the time that many of these Facebook friend requests were initiated by Suzanne.

346. Approximately 70 more pages into the Arrest Affidavit, Defendants authoring the Affidavit quote selective portions of an April 5, 2021 interrogation of Barry in which he vehemently denies ever logging onto her Facebook Account, ever changing her password, or ever initiating Facebook friend requests posing as her. Arrest Affidavit, pp. 101-102.

347. The Arrest Affidavit suggests that Barry’s statements were contrary to the forensic evidence and that he was being deceitful, when the Defendants knew the forensic evidence corroborated his statements and he was telling the truth.

348. The Defendants who authored the Arrest Affidavit omitted the fact that they knew Barry’s statements were truthful that he did not change Suzanne’s password or initiate Facebook friend requests on her behalf.

349. These Defendants knew that Suzanne was changing her own Facebook password and initiating her own Facebook friend requests. They knew that Suzanne was getting alerts on her phone indicating she was accepting the friend requests.

350. Defendant Prosecutors admitted it was Suzanne, and not Barry, who was making the Facebook friend requests on September 17, 2021 in court.

351. The statements in the Arrest Affidavit regarding Suzanne’s Facebook activity are false and misleading.

352. Defendants authoring the Arrest Affidavit knew this when they wrote the affidavit.

### d. Conclusion

353. The numerous false and misleading statements described above related to Suzanne's phone, computer, and Facebook in the Arrest Affidavit, and the omissions of exculpatory facts, are incorporated by reference.[9]

354. The above false and misleading information and omitted exculpatory information about phone, computer, and Facebook were material to a finding of probable cause.

355. The omission of the exculpatory facts as described above and throughout this Complaint about phone, computer, and Facebook was material to a finding of probable cause.

356. Had the above false and misleading information about tranquilizers been omitted and the exculpatory information about phone, computer, and Facebook been included, it would have vitiated and diluted probable cause, singularly and in combination with the other misconduct described in this Complaint.

---

[9] To repeat all of the false and misleading statements and omissions of exculpatory facts set forth in this Section would be voluminous and is unnecessary to provide additional notice to Defendants. Mr. Morphew incorporates throughout this Complaint into each section, subsection and claim all of the other information in the Complaint regardless of where it appears in the Complaint.

### *5. False and Misleading Statements about "Telematics" and Omitted Information about Suzanne's Phone Activity on May 9-10, 2020*

357. Defendants who authored the Arrest Affidavit, including at least Defendants Cahill, Lindsey, Walker, Stanley, Grusing and Harris purposely omitted material exculpatory facts from and made false statements in the Arrest Affidavit concerning the telematics [10] of Barry's truck and Suzanne's phone activity during the time period that Defendants claim that Barry had killed Suzanne and was supposedly disposing of her body.

358. The Arrest Affidavit, on page 2, states:

> The computer activity (telematics) from Barry's Ford F350, the activity of his cell phone and statements he made to law enforcement in multiple interviews confirm that from 2:47 PM on May 9, 2020 until 5:37 AM on May 10, 2020, he took steps to dispose of evidence of Suzanne's disappearance and death, create a false alibi for himself and stage a crime scene. In recent months, following the presentation of evidence by FBI Agents to Barry, he has changed critical details about his activities in the 2:00 PM hour on May 9th in attempts to match the evidence.

359. The Arrest Affidavit goes on to state: "On May 10, 2020, from 3:25 AM to 3:48 AM, the Ford F-350 registered 0 mph with GPS at Morphew

---

[10] Telematics is the software on a computer within automobiles and trucks that can capture (some, but not all) events occurring in and the vehicle, e.g., doors opening and closing, phone calls coming in via a car's bluetooth, the ignition turning on and off, GPS locations of a car, etc., etc.

residence as the doors opened and closed multiple times. SA Hoyland noted over eighty (80) events involving the F350 during this timeframe." Arrest Affidavit, p. 35.

360. This statement was not true.

361. There were at most eighteen (18) registered "events" – not 80.

362. By the summer of 2020, Defendants had received a forensic report of the telematics download ("the BERLA Report") documenting the number of registered events.

363. The BERLA report made it clear that the number "80" was simply something the Defendants made up out of thin air.

364. Known to the Defendants who authored the Arrest Affidavit, but not disclosed therein, was the fact that the FBI's C.A.S.T. report (dated June 2020) documented activity on Suzanne's phone in the early morning hours on May 10, 2020, just before the "events" on Barry's truck.

365. Suzanne's phone was both receiving and sending calls in the early morning hours of May 10, 2020.

366. The Arrest Affidavit (pp. 33-39) shows a purported timeline that purposely omits exculpatory information and excludes exculpatory timeline events.

367. For the overnight hours and early morning hours of May 10, 2020, the timeline omits any reference to the activity on Suzanne's phone during that period.

368. The statements about "telematics" were false and misleading and the omitted material regarding Suzanne's phone activity during the time that Barry's truck was falsely engaged in "80" events is exculpatory information.

370. Defendants knowingly and purposely made false statements about the telematics and excluded Suzanne's relevant and exculpatory phone activity in an effort to mislead the court.

371. The above false and misleading information and omitted exculpatory information about telematics and Suzanne's phone and computer activity were material to a finding of probable cause.

372. The omission of the exculpatory facts as described above and throughout this Complaint about telematics and Suzanne's phone and computer activity was material to a finding of probable cause.

373. Had the above false and misleading information about telematics and Suzanne's phone and computer activity been omitted and the exculpatory information included, it would have vitiated and diluted probable cause, singularly and in combination with the other misconduct described in this Complaint.

### *6. Falsehoods and Omissions about Tranquilizer Chemicals, Gun and Needle Cap*

374. Defendants authoring the Arrest Affidavit, including Defendants Cahill, Lindsey, Walker, and Stanley, purposely omitted material exculpatory facts from and made false statements in the Arrest Affidavit concerning the tranquilizer chemicals and a certain gun.

375. The Affidavit alleges that Barry killed Suzanne by means of an animal tranquilizer shot from a tranquilizer gun. Arrest Affidavit, pp. 125-126.

376. Defendants who authored the Arrest Affidavit referred to "tranquilizer dart evidence," Arrest Affidavit, p. 82, when there was no such evidence.

377. Barry Morphew is an avid hunter.

378. Barry and Suzanne lived in Indiana since birth, and owned a deer farm there.

379. Barry, Suzanne and Mallory and Macy moved to Colorado around 2018.

380. When Barry owned the deer farm, he obtained deer tranquilizers to manage the large herd on his property.[11]

---

[11] For example, one use for tranquilizing deer and elk is to move them, administer medicines, or to painlessly remove their antlers. It is not an unusual practice, nor is it uncommon for experienced hunters and deer farm owners to own tranquilizer dart guns.

381. When questioned by Defendants Grusing and Harris, Barry denied harming Suzanne and certainly denied tranquilizing her.

382. Defendants authorizing the Arrest Affidavit suggested that his denial was an indicator of a guilty conscience. In that respect they stated "Barry blamed….the deer for why his tranquilizer gun was used [and] to explain the needle sheath recovered in the dryer, ….. and the firing a gun of a .22 caliber [sic] to describe his violence towards Suzanne that afternoon and the caliber of the tranquilizer darts." Arrest Affidavit, p. 125.

384. All of these statements were false and misleading.

385. Furthermore, the Arrest Affidavit states: "By around 2:30 p.m. on Saturday May 9th, it had become clear that Barry could not control Suzanne's insistence on leaving him and he resorted to something he has done his entire life - hunt and control Suzanne like he had hunted and controlled animals." (Arrest Affidavit, p. 126).

386. This inflammatory, baseless statement had no grounding in fact. It was misleading, intentionally designed to provoke passion, and false.

### a. Lies About Tranquilizer Gun

387. The Affidavit failed to inform the judge that a true tranquilizer gun is the **only** method by which to shoot a tranquilizer dart.

388. A tranquilizer dart can never be shot from a 0.22.

389. In May 2020, Defendants Himshoot and Carricato, along with other defendants, found a tranquilizer gun in Barry's locked gun safe in the garage of the Morphew home.

390. In May 2020, Defendants Himshoot and Carricato, along with other defendants, determined the tranquilizer gun was not operable and they determined it had not been used in a long time.

391. The facts that the tranquilizer gun was inoperable and had not been fired in a very long time were purposely omitted from the Arrest Affidavit.

392. Instead the Arrest Affidavit stated: "Barry blamed….the deer for why his tranquilizer gun was used to explain the needle sheath recovered in the dryer…" (Arrest Affidavit, p. 125).

393. That statement is purposely misleading and omits that the Defendants knew that the tranquilizer gun was not operable and had not been used in a long time.

394. Furthermore, the Affidavit omitted the facts that (1) no trace of any animal tranquilizer serum was found in the Morphew home, (2) animal tranquilizer has a short shelf-life and must be properly stored in order to maintain its shelf life, and (3) no animal tranquilizer had been prescribed to Barry in recent years.

395. These were highly material, exculpatory facts that thoroughly undermined the Defendants' speculation that Barry somehow killed Suzanne using tranquilizer serum.

### b. Needle Cover

396. The Arrest Affidavit states that a plastic needle cover was retrieved from inside the clothes dryer.

397. Defendants used this to lend support to their statements in the Arrest Affidavit that Barry killed Suzanne by shooting her with a tranquilizer dart.

398. The item reportedly retrieved[12] from the dryer drum is a clear plastic hypodermic needle cover. That is how it was described by the CBI following their investigation.

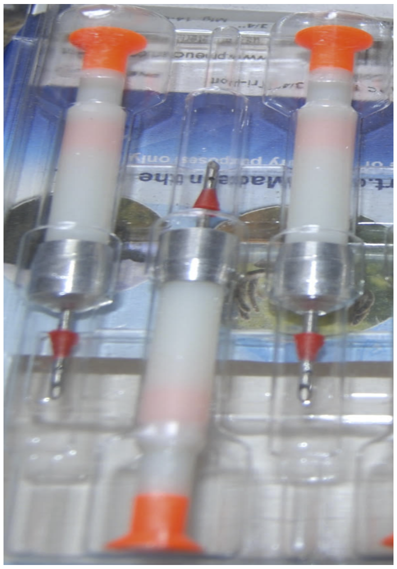
399. However, Defendants authoring the Arrest Affidavit falsely called it a "a tranquilizer dart cap," and "a dart or needle cap." Arrest Affidavit, p. 2 and p. 10.

400. The reference to "a dart cap" was purposefully false and misleading.

---

[12] As described below, the words "purportedly retrieved" are used here because the Morphew home was searched on numerous occasions. The dryer had been searched and emptied and no needle cap was found. The needle cap was only found when Defendant Himshoot was at the Morphew home days later on May 19, 2020, when he randomly opened the drier and claimed to pull out the needle sheath that was not recovered when the drier was originally searched.

401. The below image is of the true animal tranquilizers that Defendant Himshoot found in the locked gun safe in Barry's garage around May 13, 2020.



402. The tranquilizers in their package collected by Defendant Himshoot do **not** have caps or any type of cover whatsoever.

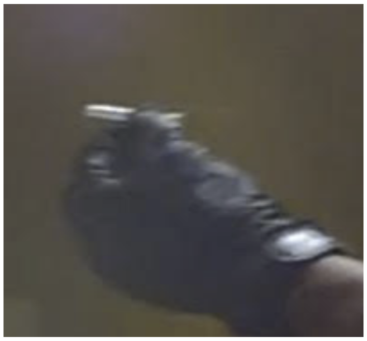
403. Defendants knew this well before drafting the Arrest Affidavit and purposely excluded that fact.

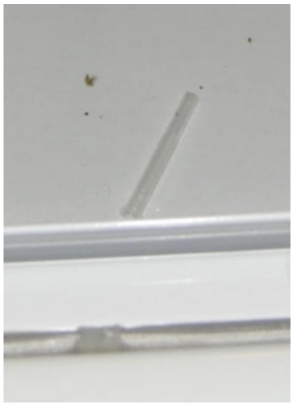
404. Defendants purposely mislead the judge about this information to support their bogus theory that Barry shot Suzanne with a dart gun by calling the item they found in the dryer a "a tranquilizer dart cap."

### c. Location of Needle Cover

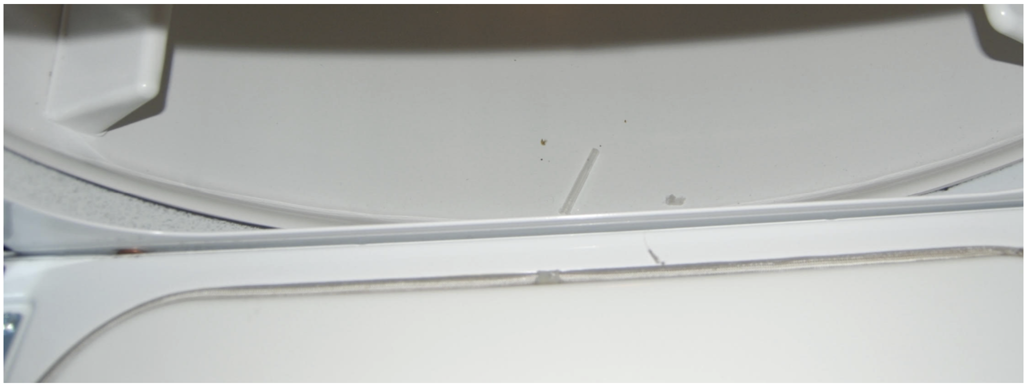
405. Below is a photograph of the item that was reportedly found by Defendant Himshoot on or about May 19, 2020 in the dryer at the Morphew home.

406. These photographs were taken by Defendant Carricato on May 19, 2020:





407. At the time of its "discovery," it was photographed in the emptied out dryer drum  not among or in any sheets:



408. Furthermore, Defendant Himshoot's body worn camera on May 19, 2020 shows him entering the laundry room and opening an empty dryer and claiming to find the item as photographed above, and telling Defendant Carricato he was going to be "happy" with the discovery.

409. The Arrest Affidavit states that the needle cover was found wrapped in Mallory's sheets.

410. That statement is false.

411. Furthermore, the Arrest Affidavit states that "SA Grusing said [to Barry] the odd thing about the sheets and the house was that a tranquilizer dart had been fired 'in or around the house.'" Arrest Affidavit, pp. 85-86.

412. Those statements were purposely included in the Arrest Affidavit to further mislead the judge.

413. The Arrest Affidavit does not disclose that CBI and CCSD Officers had already emptied the contents of the dryer sometime between May 11 and 15, 2020. This was 4-8 days before the needle cover was "found" in the empty dryer drum.

### d. DNA on Needle Cover

414. Defendant Walker knew that no "dart" or "dart cap" had been found in the dryer because he personally handled that item, as evidenced by his DNA found on the item.

415. When Defendants authoring the Arrest Affidavit omitted the fact that Walker's DNA, and not Suzanne's, was on the item.

416. Again, these statements were false.

### e. Barry's alleged statements about the tranquilizer

417. The Arrest Affidavit falsely states: "Barry admits on April 22, 2021 to the FBI that the tranquilizer was on the workbench and that it likely got thrown away in Broomfield." Arrest Affidavit, p. 77, footnote 63.

418. The Arrest Affidavit falsely states: "Barry admitted to disposing of the tranquilizers." Arrest Affidavit, pp. 111, 119.

419. The Arrest Affidavit also contains a false statement that Defendant Grusing told Barry: "SA Grusing said [to Barry] the evidence of the tranq dart was found inside the house." Arrest Affidavit, p. 98.

420. The Arrest Affidavit states: "Barry said he kept them [chemicals] on his work bench." Arrest Affidavit, p. 119.

421. The statements in the Arrest Affidavit attributing statements about tranquilizers to Barry are false and misleading.

422. Barry did not say there were any tranquilizers at his house or on the workbench in the garage on May 9, 2020.

423. Barry did not "admit" to "disposing" of tranquilizers or tranquilizer darts.

424. The statement that Barry's ownership of a .22 caliber gun somehow explained "the caliber of the tranquilizer darts" is nonsensical, false, and misleading. (Arrest Affidavit, p. 125).

425. Barry's .22 caliber gun does not and cannot shoot darts; it can only shoot bullets.

426. Defendants knew these statements were false and misleading and included them anyway.

427. In the Arrest Affidavit, under a category called "ongoing investigation," the Defendants placed information gleaned from veterinarians about the possible effects if animal tranquilizers were to be injected into a human. See Arrest Affidavit, p. 123.

428. With no evidence whatsoever that Suzanne was injected with animal tranquilizer, this information is misleading.

429. The included statements suggest that evidence of cause of death exists when, in fact, there was not even evidence about whether Suzanne is even deceased or simply missing.

### f. Conclusion

430. The numerous false and misleading statements described above related to tranquilizer serum, darts, and a tranquilizer or dart gun (collectively, "tranquilizers") in the Arrest Affidavit, and the omissions of exculpatory facts, are incorporated by reference.[13]

---

[13] To repeat all of the false and misleading statements and omissions of exculpatory facts set forth in this Section would be voluminous and is unnecessary to provide additional notice to Defendants. Mr. Morphew incorporates throughout this Complaint into each section, subsection and claim all of the other information wherever it appears in the Complaint.

431. The above false and misleading information and omitted exculpatory information about tranquilizers were material to a finding of probable cause.

432. The omission of the exculpatory facts as described above and throughout this Complaint about tranquilizers was material to a finding of probable cause.

433. Had the above false and misleading information about tranquilizers been omitted and the exculpatory information about tranquilizers been included, it would have vitiated and diluted probable cause, singularly and in combination with the other misconduct described in this Complaint.

### *7. False and Misleading Statements about the Timeline of Events on May 10, 2020*

434. Defendants who authored the Arrest Affidavit, including at least Cahill, Lindsey, Walker, Stanley, Grusing and Harris purposely omitted material exculpatory facts from and included false allegations in the Arrest Affidavit in their purported timeline of May 10th, 2023.

435. On pages 35-39 of the Arrest Affidavit, Defendants inserted a purported "timeline" of material events.

436. That "timeline" omits highly exculpatory events and mislead the court in a way that was certain to influence a probable cause determination.

### a. Suzanne's Bike Helmet in the Timeline

437. The Arrest Affidavit states: "Suzanne's bicycle and helmet were discarded before Barry left town in the early morning hours of May 10, 2020." Arrest Affidavit, p. 2.

438. The Defendants who authored the Arrest Affidavit knew that this Statement in the Arrest Affidavit was not a fact, but a theory.

439. There is absolutely no evidence when the bicycle and helmet were discarded.

440. However, the Defendants who authored the Arrest Affidavit presented it as a fact.

### b. Barry's Work Trip to Broomfield

441. The Affidavit also states that on May 10, 2020, Barry "had to suddenly leave for a job in Broomfield." Arrest Affidavit, p. 125.

442. The Affidavit further states that "he created an alibi for her disappearance." Arrest Affidavit, p. 125.

443. The Arrest Affidavit adds "..per his alibi to be out of town for an emergency job in Broomfield." Arrest Affidavit, p. 126.

444. The inference from this false statement is that there was no job and/or that Barry created this job as a last minute cover up.

445. Those statements are false as is the inference they are intended to make.

446. Defendants authoring the Arrest Affidavit knew they were false.

447. Defendants Kobach and Carricato also knew these facts and inferences were false.

448. The Broomfield work job was planned long before May 10, 2020.

449. The Defendants knew the contents of Barry's phone and of the numerous texts dating back to November 2019 with Reid Schwinn communicating about how the wall Barry was contracted to build in Broomfield had a dip in it and needed to be repaired.

450. The Defendants knew from interviews with the company that subcontracted with Barry to fix the dip in the wall, and that was in the works since November 2019.

451. The Defendants knew Barry had been trying for about a month to determine when the change order would come through.

452. Defendants knew that on May 7, 2020, Barry was advised by an employee who worked with the General Contractor on the job, that the change order came through and the materials were supposed to arrive on Monday, May 10, 2020 to perform corrections on the Broomfield wall.

453. Furthermore, Defendants Cahill, Koback and Carricato knew from emails and receipts that the Holiday Inn in Broomfield where Barry stayed was reserved more than a week prior to May 10.

454. Defendants Cahill, Koback, and Carricato also knew from Holiday Inn's and Barry's receipts collected during the search of his home, that Barry had stayed at the same Holiday Inn in November 2019 when the job was first underway.

455. Defendants knew that Barry did not "leave suddenly" as stated in the Arrest Affidavit.

### c. Barry's Calls to Suzanne on May 10, 2023

456. The Arrest Affidavit, when discussing Barry's phone, includes many of Barry's movements and calls made by his phone.

457. However, Defendants who authored the Arrest Affidavit purposely, knowingly or recklessly omitted the fact that Barry had telephoned Suzanne at 11:20 a.m. on Sunday, May 10, 2020, and placed a second text at 3:30 p.m.

458. These exculpatory facts were omitted because they did not support the Defendants' theory of probable cause.

459. The fact of that phone call is highly exculpatory because the Arrest Affidavit implies that Barry purposefully avoided trying to reach Suzanne because he allegedly killed her.

460. The Arrest Affidavit states: “At 12:42 PM, Barry entered his hotel room. Barry does not leave his room, per the film, until 6:03 PM.” (Arrest Affidavit, p. 37).

461. This statement is false and misleading.

462. There are phone calls at 1:45 p.m., 2:19 p.m., and 3:20 p.m. from Barry’s phone completed through his truck's bluetooth that registered within that time frame, clearly demonstrating that Barry’s truck had to be powered on, and he had to have been within close range of his truck to be on the phone.

463. Barry’s truck was not parked inside his hotel room. It was parked in the hotel’s parking lot.

464. To the extent that the Defendants sought to obtain a finding of probable cause based on the allegation that Barry did not leave his room, the truck’s bluetooth calls were highly exculpatory and omitted from the Arrest Affidavit.

### d. 911 Call by Ritters

465. The Arrest Affidavit states that, at approximately 5:58 p.m. on May 10, 2020, CCSD Dispatch informed CCSD Deputy Damon Brown that a neighbor, “Scott” Ritter (actually, “Martin” Ritter) had been told by Barry that he was driving back from Denver and "did not have cell service."

466. The Arrest Affidavit stated that this information was not true and that at that time, "in fact, [Barry] was at his hotel in Broomfield with cell service." Arrest Affidavit, p. 3.

467. The statement in the Arrest Affidavit that Barry was in the Broomfield hotel at 5:58 p.m. was false.

468. The statement that Barry said he was at the job site during that call is not true.

469. What the CCSD Dispatch told CCSD Deputy Brown was true – the Berla report indicates that Barry was in his truck at the hotel when he received the call from Martin Ritter at 5:45 p.m., and that Martin Ritter called 911 at 5:58 p.m. when Barry started his drive back from Broomfield.

470. Defendants drafting the Arrest Affidavit knew the statement that Barry was in the hotel room at 5:58 p.m. on May 10, 2020 to be false.

### e. Staging Tools in Hotel Lobby

471. On page 118 of the Arrest Affidavit, the Defendants authoring the Arrest Affidavit entitled a subheading using the phrase "Staging of tools in the hotel."

472. The Arrest Affidavit states that, at approximately 5:00 p.m. on May 10, 2020, "He left his room, took tools out of his truck and put them in the

lobby, to make it look like he was returning from the site." (Arrest Affidavit, p. 126).

473. This phrase is false and misleading.

474. There was evidence whatsoever of any "staging" of tools.

475. Barry brought tools for his workers from his truck into the hotel before he left Broomfield.

476. Barry did this so his workers who were to arrive later that evening could use the tools to complete the job because he was leaving the hotel to return to Salida to look for Suzanne.

477. This was confirmed by hotel staff.

478. The Defendants authoring the Arrest Affidavit include the false statement about Barry "staging" to purposely mislead the judge.

479. The Arrest Affidavit states: "Barry made very little attempt to contact Suzanne on the way home, or look around his house or the bike scene, because he already knew what happened to her." (Arrest Affidavit, p. 126).

480. The statements are false.

481. The Defendants knew this to be false.

482. Barry had already texted Suzanne three times and called her twice on May 10, 2020.

483. By the time he was driving home, Barry knew many family members and friends had been unable to reach Suzanne by phone and that she was not found at home.

484. On the drive home, at 7:21 p.m. Barry did in fact attempt to reach her by phone, to no avail.

485. Barry was in constant contact with law enforcement when he could be reached on the drive home, despite intermittent low cell phone reception and coverage.

486. Barry made it from Broomfield to Salida nearly thirty (30) minutes faster than the average drive.

487. Barry was taken into the Morphew home by Defendant Rohrich to obtain a piece of Suzanne's clothing for the K-9 search.

488. When they entered the home, Defendant Rohrich instructed Barry to not look around.

489. When Barry arrived from Salida to the location on the road nearby where Suzanne's bike had been found, he consistently asked if he could search for Suzanne, he was looking at the bike, and he was asking how he could assist the responding officers to find Suzanne.

490. The Arrest Affidavit stated that, by the time he was on his way back to Salida, Barry "already knew what happened" to Suzanne.

491. That is false.

492. Barry still does not know what happened to Suzanne.

### f. Conclusion

493. The numerous false and misleading statements described above related to the timeline in the Arrest Affidavit, and the omissions of exculpatory facts, are incorporated by reference.[14]

494. The above false and misleading information and omitted exculpatory information were material to a finding of probable cause.

495. The omission of the exculpatory facts as described above and throughout this Complaint was material to a finding of probable cause.

496. Had the above false and misleading information been omitted and the exculpatory information been included, it would have vitiated and diluted probable cause, singularly and in combination with the other misconduct described in this Complaint.

### *8. Omission of Evidence that Suzanne's Scent was Detected in the Vicinity of her Bike*

497. On May 10, 2020, CCSD officers caused a canine ("K-9") scent search to be conducted at the location where Suzanne's bike was recovered.

---

[14] To repeat all of the false and misleading statements and omissions of exculpatory facts set forth in this Section would be voluminous and is unnecessary to provide additional notice to Defendants. Mr. Morphew incorporates throughout this Complaint into each section, subsection and claim, all of the other information wherever it appears in the Complaint.

498. Defendant Walker was present when this canine ("K-9") search was conducted.

499. The K-9's name was "Rosco."

500. The K-9 handler was Doug Spence.

501. Spence reported to Defendant Walker that Rosco had picked up a scent and followed it down to the river where it stopped.

502. The fact that Suzanne's scent was detected by Rosco indicated that Suzanne could have been in the area around the bike and down along the creek.

503. This discovery was extremely exculpatory, because it undermines the Defendants' theory that the bicycle was "staged" or placed in that location by Barry.

504. This information was purposely omitted from the Affidavit.

505. On May 18, 2020, Defendant Plackner wrote an Incident Report that included the following: "After a short distance his dog was attracted to the water in the area. In his opinion there was a possible track leading downstream between the South Fork of the Arkansas and County Road 225 before it crosses the first bridge off of Highway 50."

506. This statement was false. It was contradicted by Doug Spence's sworn testimony on March 30, 2022, and it was contradicted by body worn camera video footage.

507. The state court judge presiding over pretrial hearings in the criminal case observed: "Mr. Spence unequivocally denied that his dog was attracted to the water or the direction of the Morphew home."

508. The above false and misleading information and omitted exculpatory information about Suzanne's scent having been detected at her bicycle and a trail leading away from it were material to a finding of probable cause.

509. The false statements made by Defendant Plackner in his report and described above were material to a finding of probable cause and to the course of the investigation.

510. The omission of the exculpatory facts described above about the K-9 scent search at the bicycle location was material to a finding of probable cause.

511. Had the above false and misleading information been omitted and the exculpatory information been included, it would have vitiated and diluted probable cause, singularly and in combination with the other misconduct described in this Complaint.

### *9. False Statements and Material Omission of Exculpatory Evidence about the Mileage Reading on Barry's Truck on May 10, 2020*

512. The Arrest Affidavit states that there was a discrepancy in the mileage on Barry's truck on May 10, 2020, with the mileage to Broomfield being 183 miles and a return trip of only 167 miles – a discrepancy of 14 miles. Arrest Affidavit, p. 73.

513. Defendants who authored the Arrest Affidavit stated an inference that on May 10, 2020 around 5:00 a.m, Barry drove his truck a total of 14 miles round trip to hide Suzanne's body or evidence of a crime before leaving for Broomfield, Colorado.

514. The Arrest Affidavit is false: the FBI's CAST report (which references telematics report ("Berla report") reflects that the "missing" mileage was 18 miles, not 14 miles.

516. The fact that the "missing" miles was 18 miles is significant because those miles are not "missing" at all.

517. The Arrest Affidavit failed to include the fact that, on May 9, 2020, in the afternoon, Barry had driven to and from Salida Stove and Spa, a local business.

518. On three dates – May 19, May 22, and September 25, 2020 – Defendants confirmed with impartial witnesses that Barry had traveled to Salida Stove and Spa on May 9, 2020 in the afternoon.

519. The round trip drive distance to Salida Stove & Spa is approximately 18 miles.

520. Defendants authoring the Arrest Affidavit, including at least Defendants Graham, Walker, and Cahill, knew these facts about Salida Stove and Spa but did not include them in the Arrest Affidavit.

521. Defendants authoring the Arrest Affidavit left the misleading impression that there were unaccounted for miles on Barry's truck with the inference that he must have been engaged in criminal activity.

522. The above false and misleading information and omitted exculpatory information were material to a finding of probable cause.

523. The omitted information from the impartial witnesses that Barry had traveled to Salida Stove and Spa on May 9, 2020, thereby accounting for the supposed "inculpatory" extra 18 miles, would have vitiated and diluted any probable cause.

524. Had the Arrest Affidavit omitted the untrue fact that the "unaccounted-for" miles were 14 miles, and included the true fact that it was 18 miles, probable cause would have been vitiated and diluted.

525. Had the above false and misleading information been omitted and the exculpatory information been included, it would have vitiated and diluted probable cause, singularly and in combination with the other misconduct described in this Complaint.

### *10. False and Misleading Statements about the Broomfield Hotel*

526. The Arrest Affidavit infers suspicion from the fact that one of Barry's co-workers on the Broomfield job stated Barry's hotel room smelled of chlorine.

527. The Arrest Affidavit does not disclose material, highly exculpatory information about the hotel room.

528. The Arrest Affidavit does not include that law enforcement never went to Barry's hotel room or conducted an investigation there.

529. The Arrest Affidavit does not include that in September 2020, CBI Agent Jason Hebrard and the Hotel General Manager, Ms. Almeida, emailed each other about the location of the room.

530. The Arrest Affidavit does not include that Ms. Almeida emailed that Room 225 is right above the indoor pool at the hotel and four months later, still had a strong pool smell.

531. The Arrest Affidavit does not include that Ms. Almeida invited Hebrard to the hotel to smell the chlorine for himself, but he did not follow up.

532. The Defendants authoring the Arrest Affidavit knew these facts and omitted them from the Arrest Affidavit.

533. Prior to inserting the misleading information in the Arrest Affidavit and omitting the exculpatory information, Defendants did not inspect the hotel room.

534. Prior to inserting the misleading information in the Arrest Affidavit and omitting the exculpatory information, Defendants did not conduct any forensic testing of the hotel room.

535. Prior to inserting the misleading information in the Arrest Affidavit and omitting the exculpatory information, Defendants did not investigate this specious claim that was inserted into the Arrest Affidavit.

536. The above false and misleading information and omitted exculpatory information about the chlorine smell and the location of the hotel room in the hotel were material to a finding of probable cause.

537. Had the above information about the chlorine smell and the location of the hotel pool been included, and had the Defendants inspected the hotel room and reported the true facts, it would have vitiated and diluted probable cause.

538. The omission of the exculpatory facts about the chlorine smell and the location of the hotel pool was material to a finding of probable cause.

539. Had the above false and misleading information been omitted and the exculpatory information been included, it would have vitiated and diluted probable cause, singularly and in combination with the other misconduct described in this Complaint.

### *11. False and Misleading Statements Attributed to Suzanne*

#### a. Claim that Suzanne Wanted Out of the Marriage

540. The Arrest Affidavit states: "Suzanne told **numerous** close friends, **her daughters** and Barry that she wanted out of her marriage." Arrest Affidavit, p. 10 (emphasis added).

541. These statements were used to infer motive, i.e., that Barry killed Suzanne because she wanted "out of her marriage."

542. These types of statements were critical to probable cause.

543. These statements are false.

544. Mallory and Macy did not report that Suzanne told them she wanted out of her marriage.

545. While one of Suzanne's friends, Sheila Oliver, said that Suzanne made a statement to that effect, that is not "numerous close friends" as stated in the Arrest Affidavit.

546. Defendants who authored the Arrest Affidavit knew these statements were false.

547. Defendant Hysjulien knew these statements were false.

548. Defendant Hysjulien interviewed Macy and Mallory Morphew and knew they did not make those statements.

### b. Claim Suzanne Assisting with Sheila's Daughter's Wedding

549. Suzanne had a friend, Sheila Oliver, in Indiana who she communicated with by phone and text messaging.

550. The Arrest Affidavit states: "Suzanne had been excited about the wedding of [her friend] Sheila's daughter on May 10th - Suzanne was helping Sheila prepare and eager to watch it online." Arrest Affidavit, p. 10.

551. These statements were used to infer that Suzanne did not simply leave voluntarily but rather, she was killed.

552. This statement is false.

553. Suzanne did not help Sheila prepare for the wedding.

554. Suzanne learned about the wedding just before May 10, 2020.

### c. Claims Regarding the Spy Pen

555. Sheila told Defendant Burgess that she bought a "spy pen" for Suzanne to assist Suzanne in possibly catching Barry in an extramarital affair.

556. The Defendants authoring the Arrest Affidavit wrote that Shelia purchased the spy pen because she was concerned about Suzanne's safety. Arrest Affidavit p. 11.

557. This was false.

558. Defendants authoring the Arrest Affidavit knew what Shelia told Burgess about why she purchased the pen in an attempt to catch Barry in an affair.

559. Sheila purchased the spy pen because Suzanne wrongly believed Barry was having an extra-marital affair.

560. The Defendants had those records as they found the spy pen in the Morphew home.

561. The recordings on the spy pen were what led the investigators to discover Suzanne's extra-marital affair with Libler.

562. This and similar statements and false inferences were material to probable cause because they suggested that Barry might have a propensity to commit violence upon Suzanne.

### d. Conclusion

563. The above false and misleading information and omitted exculpatory information about statements attributed to Suzanne were material to a finding of probable cause.

564. The omission of the exculpatory facts that contradicted the statements attributed to Suzanne in the Arrest Affidavit was having an affair was material to a finding of probable cause.

565. The false and misleading statements attributed to Suzanne were material to probable cause, without which probable cause would have been vitiated and diluted.

566. Had the above false and misleading information been omitted and the exculpatory information been included, it would have vitiated and diluted probable cause, singularly and in combination with the other misconduct described in this Complaint.

### *12. False Statement Attributed to Jeff Libler*

567. Suzanne Morphew was having a secret extramarital affair with a man who lived in Michigan – Jeff Libler.

568. Defendants discovered this extramarital affair during the investigation of this case.

569. Evidence of the affair was discovered because Suzanne had recorded conversations with herself and Libler on the spy pen Sheila Oliver had given her.

570. Defendants who authored the Arrest Affidavit wanted the court to believe that Libler was not responsible for Suzanne's disappearance, i.e., that he

did not have her abducted or killed and he did not help arrange for her to leave voluntarily.

571. This was critical to the targeting of Barry Morphew in the Arrest Affidavit.

572. The Arrest Affidavit states: "Libler has not traveled to Colorado to see Suzanne, partly because Suzanne said Barry has surveillance cameras all around the house." Arrest Affidavit, p. 14.

573. That statement is false.

574. Libler never stated that he did not travel to Colorado because Suzanne said they had surveillance cameras around the house.

575. The above false and misleading information about Libler supposedly explaining why he did not travel to Colorado and the lack of investigation into Libler were material to a finding of probable cause.

576. Had the above false and misleading information been omitted, it would have vitiated and diluted probable cause, singularly and in combination with the other misconduct described in this Complaint.

### *13. False and Misleading Information about Statements Attributed to Barry Morphew*

577. The Arrest Affidavit states: "The computer activity (telematics) from Barry's Ford F350, the activity of his cell phone and statements he made

to law enforcement in multiple interviews confirm that from 2:47 p.m. on May 9, 2020 until 5:37 AM on May 10, 2020 he took steps to dispose of evidence of Suzanne's disappearance and death, create a false alibi for himself and stage a crime scene." Arrest Affidavit, p. 2.

578. The Arrest Affidavit states:

> In recent months, following the presentation of evidence by FBI Agents to Barry, he has changed critical details about his activities in the 2:00 PM hour on May 9th in attempts to match the evidence. Since January 2021, Barry has admitted to: chasing a chipmunk with a gun around the house while Suzanne was outside sunbathing, shooting a deer with a tranquilizer dart to explain a dart or needle cap in the dryer, disposing of the tranquilizer solution during his trip to Broomfield, following a bull elk down Highway 50 in the 4:00 AM hour on May l0th to explain why his truck would be headed west (where the helmet was discarded). Arrest Affidavit, p. 2.

579. The alleged "admissions" by Barry are referenced completely out of context in the Arrest Affidavit.

580. Barry did not make the "admissions" attributed to him in the Arrest Affidavit or, in some cases, the "admissions" are taken very much out of context following leading questions and false statements by the questioners.

581. The above false and misleading information and omitted exculpatory information about Barry's supposed "admissions" were material to a finding of probable cause.

582. The omission of the exculpatory facts that Barry did not make these “admissions” was material to a finding of probable cause.

583. Had the above false and misleading information been omitted and the exculpatory information been included, it would have vitiated and diluted probable cause, singularly and in combination with the other misconduct described in this Complaint.

### ***14. “Suspected Blood” near the Morphew Garage that Defendants Knew was NOT Blood***

584. “On May 11, 2020, pursuant to an authorized search warrant obtained by your affiant, while assisting with the search of the exterior of the residence your affiant located what appeared to be suspect blood on the apron of the garage near the east side of the three-car garage.” Arrest Affidavit, p. 8.

585. That statement is misleading and omits material exculpatory information.

586. Defendants knew by the end of the summer of 2020 that the “suspect blood” was not blood at all.

587. Defendants intentionally omitted that the “suspected blood” had been tested and proved not to be blood.

588. The above false and misleading information and omitted exculpatory information about "suspect blood" were material to a finding of probable cause.

589. The omission of the exculpatory fact that blood was ruled out was material to a finding of probable cause.

590. Had the above false and misleading information been omitted and the exculpatory information been included, it would have vitiated and diluted probable cause, singularly and in combination with the other misconduct described in this Complaint.

### ***15. False and Misleading Statements about the Investigation of Whether Suzanne was Still Alive***

591. The Arrest Affidavit states: "All record checks available to the FBI and local law enforcement indicate as of April 30, 2021, that Suzanne has not used a credit card, …." Arrest Affidavit, p. 2.

592. This statement is misleading because Defendants Walker, Lindsey, and Stanley knew that Suzanne owned a "green dot" credit card which can be used without leaving a trace.

593. The Arrest Affidavit states: "All record checks available to the FBI and local law enforcement indicate as of April 30, 2021, that Suzanne …… had not crossed a national border." Arrest Affidavit, p. 2.

594. This statement is misleading because neither the FBI nor law enforcement have a way of checking records of U.S. citizens who walk into Mexico, and few cars that drive into Mexico are subjected to an identification check and recording of names.

595. The Arrest Affidavit states: "All record checks available to the FBI and local law enforcement indicate as of April 30, 2021, that Suzanne …… had not flown in an airplane." Arrest Affidavit, p. 2.

596. This statement is misleading because passengers in private airplanes are not recorded on any registry available to the FBI or law enforcement, nor was there any investigation conducted to determine if Suzanne had been at a private airport

597. The Arrest Affidavit states: "All record checks available to the FBI and local law enforcement indicate as of April 30, 2021," Suzanne had not established "utilities or housing." Arrest Affidavit, p. 2.

598. This statement is misleading because persons who set up utilities or housing are not part of a national registry. Anyone can "establish housing" or utilities under any name, and such events are not known to law enforcement and certainly not to the FBI.

599. Defendants authoring the Arrest Affidavit knowingly or recklessly disregarded the fact that those statements were misleading.

600. The above false and misleading information and omitted exculpatory information about Suzanne's potential movements were material to a finding of probable cause.

601. The omission of the exculpatory facts described above was material to a finding of probable cause.

602. Had the above misleading information been omitted and the exculpatory information been included, it would have vitiated and diluted probable cause, singularly and in combination with the other misconduct described in this Complaint.

#### *16. False and Misleading Statements that Barry Knew About Suzanne's Affair as Motive for Him*

603. Suzanne Morphew had a long sexual affair with Jeff Libler.

604. The affair with Libler was hidden extremely well.

605. Libler's wife did not know of the affair.

606. Suzanne's best friend, Sheila Oliver, did not know of the affair.

607. The Defendants did not discover the affair, who it was with, or the intensity of it until at least six months after Suzanne disappeared.

608. On January 27, 2021, Defendants Grusing and Harris interviewed Barry and, for the first time, told him about Suzanne's affair with Libler.

609. Barry was shocked.

610. Barry stated he had not known about any affair.

611. Barry asked Defendants Grusing and Harris questions about what they knew and who it was.

612. Defendants Grusing and Harris did not reveal much detail to Barry on January 27, 2021.

614. On January 28, 2021, Barry told Defendants Grusing and Harris upon reflection that Suzanne had taken trips by herself.

615. Barry asked about one in particular – a trip to New Orleans – and wondered whether she had met the man on that trip.

616. Barry told Defendants Grusing and Harris that Suzanne told him she just wanted to go to New Orleans and that she was going by herself.

617. Barry told Defendants Grusing and Harris that he had asked Suzanne why she wanted to go to New Orleans by herself.

618. Barry told Defendants Grusing and Harris that Suzanne's explanation "didn't make sense" to him when he asked her about it.

619. Defendants who authored the Arrest Affidavit wrote, "Barry admitted to questioning Suzanne about the New Orleans trip (to meet Libler), further evidence he suspected the affair." (Arrest Affidavit, p. 65).

620. This footnote was false and misleading because Barry had not questioned Suzanne about her trip *to meet Libler* – he said he questioned her about why she would want to go *by herself*.

621. The footnote was also false and misleading because it called Barry's questioning Suzanne about why she wanted to go to New Orleans by herself "evidence he suspected the affair".

622. There was no evidence at all that Barry's questions to Suzanne about the New Orleans trip suggested he knew about the affair with Libler or suspected anything.

623. Defendants who authored the Arrest affidavit knew that Barry did not know about the affair until Defendant Grusing told him about it.

624. The Affidavit states: "In January 2019, Barry took Suzanne's phone from her when they were in a resort in Mexico while she was talking to Libler, but he was unable to determine Libler's identity." Arrest Affidavit, p. 2.

625. Defendants inserted this into the Arrest Affidavit to leave the inference that Barry had a motive to kill Suzanne.

626. The Defendants wanted to leave the impression that Barry knew she was having an affair with Jeff Libler.

627. The statement that Barry took Suzanne's phone away from her while she was talking to Libler, is not true and defendants knew it was not true.

628. Libler told Defendants Grusing and Harristhat it was not true.

629. The Arrest Affidavit states: "By September 2019, Barry took clear steps to determine if Suzanne was having an affair by stalking her at their own residence in Salida, Colorado." Arrest Affidavit, p. 2.

630. This was both false and misleading.

631. The event to which defendants refer occurred not in September 2019, but in September 2018 and is blatantly mischaracterized.

632. In September of 2018, Suzanne called 911 because she heard someone outside the Morphew home.

633. At the time, their daughter Macy and Suzanne's friend Sheila were there.

634. It was Barry, outside the home.

635. During the 911 call, Barry entered the home, Suzanne and everyone else laughed at the surprise, and she terminated the 911 call without incident.

636. All of this is clearly audible on the 911 call, but was not disclosed in the Arrest Affidavit.

637. The Defendants authoring the Arrest Affidavit knew this and purposely inserted that gross mischaracterization.

638. Instead, Defendants inserted into the Arrest Affidavit the theory that, because he did not immediately enter the residence, Barry might have been attempting to determine if Suzanne was actually with a male visitor by “stalking” her.

639. In a highly misleading fashion, Defendants Walker, Lindsey, and Stanley characterized these innocuous events as “clear steps” and “stalking.”

640. The above false and misleading information and omitted exculpatory information were material to a finding of probable cause.

641. The omission of the exculpatory facts described above was material to a finding of probable cause.

642. Had the above misleading information about whether Barry knew about the affair, and all the underlying statements inferring that accusation been omitted and the exculpatory information been included, it would have vitiated and diluted probable cause, singularly and in combination with the other misconduct described in this Complaint.

### *17. Misleading Statements that Falsely Implied that Barry was having an Affair*

643. Defendants extensively investigated whether Barry was having an extramarital affair.

644. The Arrest Affidavit states: "Morgan Interview May 14, 2020, Morgan adamantly denied there was ever any type of sexual relationship between her and Barry." p. 47.

645. The Defendants knew Barry never had an affair. Yet, they inserted this statement in the Affidavit to imply Barry Morphew had a motive to murder his wife.

646. The Arrest Affidavit omits the exculpatory fact that there was never any reliable evidence that Barry was having an extramarital affair.

647. Instead, the Defendants relayed statements that Sheila Oliver suspected him of having an affair in the past.

648. The Arrest Affidavit falsely states: "Relationship with [Shoshana] Darke reported to date back to July 2020, though investigators have not confirmed that." Arrest Affidavit, p. 124.

649. This statement was also false.

650. Defendants authoring the Arrest Affidavit knew it was false.

651. Investigators had, in fact, confirmed that Barry and Ms. Darke did not meet until October 2020.

652. The Defendants used this false fact to encourage the Court to speculate that Barry had a motive to kill his wife because he was having an affair or relationship with Ms. Darke.

653. The Arrest Affidavit devotes almost an entire page to the subject of Ms. Darke.

654. As indicated elsewhere in this Complaint, investigators also included in the Arrest Affidavit the untrue, misleading, and irrelevant allegation that on a trip Barry and Ms. Darke took in February 2021, he intentionally disabled his phone and/or manually turned it on "airplane mode."

655. The above false and misleading information and omitted exculpatory information were material to a finding of probable cause.

656. The omission of the exculpatory facts described above was material to a finding of probable cause.

657. If the Arrest Affidavit had omitted the false and misleading statements described above, including about Barry supposedly having an affair or affairs and using "airplane mode" or disabling his phone in February 2021 to hide an affair, probable cause would have been vitiated and diluted.

658. Had the above false and misleading information been omitted and the exculpatory information been included, it would have vitiated and diluted probable cause, singularly and in combination with the other misconduct described in this Complaint.

### *18. False Statements About the Backhoe ("Skid Steer")*

659. For Barry's landscaping business, he owned a skid steer (otherwise known as a "Bobcat").

660. Defendants knew that the skid steer that Barry owned was not used after 12:34 p.m.May 9th or on May 10th, 2020.

661. They knew it was in no way used or related to any criminal activity.

662. Despite this knowledge, Defendants who authored the Arrest Affidavit inserted multiple references to Barry's skid steer.

663. The Defendants included wild speculation from neighbors and friends that perhaps Barry used his Bobcat to cover up his wrongdoing, by burying Suzanne or taking other steps.

664. Such statements in the Arrest Affidavit include:

- Brad Osswald's statement that Barry is an excellent skid loader operator and can do incredible things with a skid loader. (Arrest Affidavit, p. 51).
- Andrew Moorman's speculation that Barry could have placed Suzanne's body in a tarp in the skid loader and put her anywhere on his way to Denver. (Arrest Affidavit, p. 53)

- Beginning in the fall of 2019, Barry had discussions with a man named Tim Klco about possibly buying a backhoe attachment from him. The Defendants who authored the Arrest Affidavit inserted part of Defendant Grusing's July 2020 interview with Klco and hypothesized that perhaps Barry wanted to buy the backhoe so he could "dig a deep hole or trench in a very short amount of time." Arrest Affidavit, p. 53.
- The Defendants then inserted a footnote: "In March and April 2021, FBI Agents asked Barry about why he needed a backhoe that particular time and day. FBI Agents learned that before Barry left Indiana in 2018, he used a backhoe to dig a large hole in his front yard, fill it with items to include furniture, and cover it over, planting alfalfa on top. Barry also dug holes to hide large sums of money in Indiana, per his associates and own admissions." Arrest Affidavit, p. 53, footnote 55.
- There were barefoot footprints on the Bobcat and the blade and nuts and bolts appeared to be new. Arrest Affidavit, p. 5.

665. Defendants included many statements about the Bobcat.

666. Defendants knew there was no evidence that Barry used the skid steer to do anything related to Suzanne's disappearance.

667. Defendants' knowledge was based on forensic evidence, telematics on the skid steer, and further investigation including multiple digs by law enforcement to excavate areas where they surmised Barry could have buried Suzanne's body to no avail.

668. The statements above about the skid steer were part of a fabricated story used to raise suspicions that because Barry had a backhoe, perhaps he killed his wife and used it to get rid of her body.

669. The above false and misleading information and omitted exculpatory information were material to a finding of probable cause.

670. The omission of the facts described above about the Bobcat Skid Steer telematics ruling out its use was material to a finding of probable cause.

671. If the false and misleading statements about the Bobcat skid steer described above and the unfounded wild speculation had been omitted, probable cause would have been vitiated and diluted.

672. Had the above false and misleading information about the Bobcat been omitted and the exculpatory information been included, it would have vitiated and diluted probable cause, singularly and in combination with the other misconduct described in this Complaint.

### *19. False Statements about the Canine ("K-9") Searches*

673. The Defendants authoring the Arrest Affidavit, as well as the Defendant Officers knew that numerous searches for Suzanne were conducted with the use of K-9's who were trained to identify scents of humans, whether a scent while alive or after death.

674. On May 12, 2020 two K-9's with different dog handlers from El Paso County were brought to the Morphew residence to search for the scent of a decomposed body or remains.

675. On May 12, 2020, the cadaver K-9's did not alert in the garage, in Suzanne's car, or in Macy's car.

676. On May 12, 2020 one cadaver K-9 searched the inside of the Morphew home but made no alert.

678. The lack of cadaver dog alerts at the Morphew residence on May 12, 2020, is exculpatory information.

679. The lack of cadaver dog alerts at the Morphew residence on May 12, 2020 was not included in the Affidavit.

680. On May 12, 2020, Defendant Officers conducted a K-9 search at the impound lot where Barry's truck was held.

681. The K-9 search of Barry's truck at the impound lot included the cab of the truck, the outside of the truck and the truck bed.

682. The K-9 searching Barry's truck at the impound lot did not alert that there was a scent of Suzanne's body or remains.

683. The result of the K-9 search of Barry's truck at the impound lot was exculpatory information.

684. The result of the K-9 search of Barry's truck at the impound lot corroborates the lack of Suzanne's DNA found in Barry's truck.

685. The result of the K-9 search of Barry's truck at the impound lot contradicts the theory that Barry used his truck to bury Suzanne, her clothing, or objects used to kill her.

686. The result of the K-9 search of Barry's truck at the impound lot was not included in the Affidavit.

687. On May 16, 2020, the FBI's Evidence Response Team brought in two K-9's and two handlers to the Morphew residence.

688. The K-9's searching the Morphew residence on May 16, 2020 did not give a "trained final response" inside the residence.

689. The K-9's searching the Morphew residence on May 16, 2020 did not give a "trained final response" on the Skid Steer.

690. The results of the K-9's searching the Morphew residence on May 16, 2020, were exculpatory.

691. The results of the K-9's searching the Morphew residence on May 16, 2020, were not included in the Arrest Affidavit.

692. On May 16, 2020, the FBI's Evidence Response Team and its two K-9's were brought to a vehicle line-up that included the two Range Rovers that had previously been sniffed on May 12, 2020, in the Morphew garage.

693. At the vehicle line-up on May 16, 2020, there was "no trained final response" by either of the dogs in either of the Range Rovers.

694. The results of the K-9 search at the vehicle line-up on May 16, 2020, were exculpatory.

695. The results of the K-9 search at the vehicle line-up on May 16, 2020, were not included in the Affidavit.

696. On May 17, 2020, another K-9 trained to search for a decomposing body/cadaver conducted a scent search at a vehicle line-up that included Barry's truck.

697. At the K-9 search on May 17, 2020, the dog was led around all of the trucks and inside all of the trucks.

698. At the K-9 search on May 17, 2020, the dog did not signal on Barry's truck.

699. The results of the K-9 search at the vehicle line-up on May 17, 2020, were exculpatory.

700. The results of the K-9 search at the vehicle line-up on May 17, 2020 not included in the Affidavit.

701. Defendants authoring the Affidavit included the results from only one K-9 search of the Morphew property – a **fourth** K-9 search on May 23, 2020.

702. The Arrest Affidavit states that, at the K-9 search on May 23, 2020, all three K-9's alerted to the flatbed trailer and Bobcat Skid Steer." Arrest Affidavit, p. 41.

703. The Defendants who authored the Affidavit knew the SIM Card and GPS in the Bobcat proved the Bobcat did not move after 12:34 p.m. on May 9, 2020.

704. Defendants authoring the Arrest Affidavit knew that the Bobcat Skid Steer was not involved in Suzanne's disappearance.

705. The Defendants purposely omitted the three K-9 searches where there were no alerts to many different items and areas, pre-dating the March 23, 2020.

706. The above false and misleading information and omitted exculpatory information were material to a finding of probable cause.

707. The omission of the facts described above about the exculpatory K-9 searches was material to a finding of probable cause.

708. Had the above misleading information about the May 23, 2020 Bobcat K-9 search been omitted and the exculpatory information about all the other K-9 searches been included, it would have vitiated and diluted probable cause, singularly and in combination with the other misconduct described in this Complaint.

### *20. Misleading Statements about the "Steak Dinner" Barry and Suzanne had on May 9, 2020*

709. The Arrest Affidavit states: "Barry claimed to the CBI that he and Suzanne ate steaks, though he cannot describe them." (referring to May 9, 2020). (Arrest Affidavit p. 125).

710. Defendants authoring the Arrest Affidavit included this statement about Barry being unable to "describe" steaks to raise doubt about his statements that on the evening of May 9, 2020, he and Suzanne had a steak dinner.

711. Defendants Cahill and Graham and the Defendants authoring the Arrest Affidavit knew that on numerous occasions when Barry and Suzanne ate steak for dinner, they shared one big steak.

712. The search of the freezer in the Morphew home revealed an open package of steaks in a ziplock freezer bag that appeared to have one large steak missing.

713. The corroborating evidence that Barry and Suzanne shared a steak on May 9, 2020 was exculpatory because it countered the suspicion raised by the Affidavit's statement that Barry could not "describe" the steak they had for dinner.

714. The exculpatory information about Barry's statement that, when he and Suzanne ate steak, they often shared one steak was not included in the Arrest Affidavit.

715. The exculpatory information about the open package of steaks in the freezer with one steak missing was not included in the Arrest Affidavit.

716. The above misleading information and omitted exculpatory information were material to a finding of probable cause.

717. The omission of the facts described above about the steak was material to a finding of probable cause.

718. Had the above information about the steak in the freezer been included and the misleading information been omitted, it would have vitiated and diluted probable cause, singularly and in combination with the other misconduct described in this Complaint.

### *21. Misleading Statement that Barry "Blamed" a Mountain Lion*

719. The Arrest Affidavit states: "Barry initially blamed a mountain lion for Suzanne's death upon being notified of her bicycle discovery." (Arrest Affidavit, p. 125).

720. The statement that Barry "blamed" a mountain lion is false.

721. On May 10, 2020, upon being notified of the discovery of the bicycle, Barry *asked* if it was a mountain lion. Barry stated, "I thought - I asked some of the guys about it and we do have a big mountain lion in the subdivision but you would think there would be some evidence of that…"

722. Barry's statements about the mountain lion described in the preceding paragraph are not included in the Arrest Affidavit.

723. Mountain lion attacks on humans are not uncommon in that area of Colorado.

724. Defendants Spezze, Rohrich, and Plackner later discovered that there was a big mountain lion seen near Barry's home the next day.

725. The Arrest Affidavit did not disclose the information in the preceding two paragraphs.

726. Defendants authoring the Arrest Affidavit intentionally sought to infer that Barry Morphew was making up wild excuses for Suzanne's disappearance.

727. Barry also discussed with first responders a variety of possibilities about what might have happened, this was video recorded on body cameras, all of which was also omitted.

728. The above false and misleading information and omitted exculpatory information were material to a finding of probable cause.

729. The omission of the facts that Barry was asking about a mountain lion, that his questions were not unreasonable, and that he asked about many possibilities (not just about a mountain lion), was material to a finding of probable cause.

730. Had the above information that Barry had reason to ask about a mountain lion and asked (not told) Defendants about the lion been included and the false and misleading information about Barry supposedly "blaming a mountain lion …" been omitted, it would have vitiated and diluted probable cause, singularly and in combination with the other misconduct described in this Complaint.

### *22. Misleading Statements About Barry Blaming a Turkey*

731. The Arrest Affidavit states: "In 2021, Barry blamed the turkeys for why he did not have veggie soup with Suzanne during lunch on Saturday, May 9th…." Arrest Affidavit, p. 125.

732. This statement is false.

733. Barry did not “blame” a turkey for anything.

734. This was another attempt by the Defendants authoring the Arrest Affidavit to create an inference that Barry was making bad excuses.

735. In April, 2021, Defendants Grusing and Harris showed Barry the pinpoint map (“pushpin map”) and told him that he was down by the creek at a time that Suzanne was on the telephone with her lover Libler.

736. Defendants Grusing and Harris asked Barry why he was down at the creek.

737. Barry’s response was: “*if I was out there*,” the “only things I’d be doin’” might be looking for antlers or turkeys.

738. The Defendants who authored the Arrest Affidavit did not accurately recite what Barry told them and did not explain it was in response to the lies they told him using the manufactured pinpoint map.

739. The above false and misleading information and omitted exculpatory information were material to a finding of probable cause.

740. Had the above information that Barry’s statements were made in response to lies he was being told by Defendants Grusing and Harris been included and the false and misleading information about Barry supposedly “blaming a Turkey…” been omitted, it would have vitiated and diluted probable

cause, singularly and in combination with the other misconduct described in this Complaint.

### *23. False and Misleading Statements about What Barry was to Have Said to Defendants*

741. The Arrest Affidavit states: "Barry blamed…the firing a gun of a .22 caliber to describe his violence towards Suzanne that afternoon…" (Arrest Affidavit, p. 125).

742. This statement is false.

743. Barry did not "describe" any violence towards Suzanne on May 9, 2020.

744. Barry's statements were in response to the lies he was being told by Defendants Grusing and Harris as they confronted him with the fabricated "pushpin map" and told him there was proof that he was running around his house on the afternoon of May 9, 2020.

745. The above false and misleading information was material to a finding of probable cause.

746. The omission of the fact that Barry was responding to lies he was being told was material to a finding of probable cause.

747. Had the false and misleading information been omitted, it would have vitiated and diluted probable cause, singularly and in combination with the other misconduct described in this Complaint.

### *24. False Statements about Suzanne's Breathing in the Morning of May 10, 2020*

748. The Arrest Affidavit states: "Barry cannot provide a last sighting of Suzanne…" (Arrest Affidavit, p. 126.)

749. That is false.

750. Barry told Defendants that, when he woke on the morning of May 10, 2020, to leave for Broomfield, Suzanne was laying in bed sleeping.

751. Defendant Grusing asked Barry if he saw Suzanne under a "lump" of covers and he agreed he did.

752. The Arrest Affidavit also states that Barry said that, when he heard Suzanne in the bed in the morning, she was experiencing "labored breathing similar to a snore." (Arrest Affidavit, p. 126).

753. That is false.

754. Barry did not say her breathing was "labored."

755. Barry described Suzanne's snoring as a light snore. He said Suzanne had always lightly snored and was doing so on the morning of May 10, 2020.

756. Defendants who authored the Arrest Affidavit used their own description, “ labored breathing similar to a snore,” to assert that Suzanne was making sounds “consistent with her being tranquilized.” (Arrest Affidavit, p. 126).

757. This statement is misleading because Barry did not say that Suzanne sounded like she was experiencing “labored breathing.”

758. The above false and misleading information and omitted exculpatory information were material to a finding of probable cause.

759. Had the above information about Barry having a last sighting of Suzanne been included and the false and misleading information about Suzanne’s “labored breathing” been omitted, it would have vitiated and diluted probable cause, singularly and in combination with the other misconduct described in this Complaint.

### *25. False and Misleading Statement about Barry taking Suzanne’s Phone*

760. The Arrest Affidavit states: “Barry has admitted that he had taken Suzanne's phone from her at least twice in the past to try to monitor or control what she was doing.”

761. That statement is false.

762. The above false statement is material to a finding of probable cause.

763. Had the above information about Barry "admit[ting] that he had taken Suzanne's phone from her at least twice in the past to try to monitor or control what she was doing" been omitted, it would have vitiated and diluted probable cause, singularly and in combination with the other misconduct described in this Complaint.

### C. FAILURE TO TRAIN AND SUPERVISE

764. Defendants Stanley and Spezze, acting in their official capacities, and the CCSD failed to train and supervise Defendant Officers, Defendant Prosecutors, and other personnel concerning the constitutional rights of citizens like Barry Morphew.

765. The Defendants Stanley and Spezze, acting in their official capacities, and the CCSD tacitly approved of the Defendants' misconduct by retaining their employment, failing to train and discipline them, and participating in the misconduct as supervisors.

766. The Defendants Stanley and Spezze, acting in their official capacities, and the CCSD exhibited deliberate indifference to or tacit approval of the misconduct of their personnel.

767. The misconduct that Defendants committed against Barry Morphew was part of an official custom, policy, or practice of the CCSD and the EJDAO and undertaken with the authorization, approval, and ratification of CCSD and EJDAO final policymakers, Defendants Linda Stanley and John Spezze.

## D. RECKLESS INVESTIGATION

768. Defendant Officers, Defendant Prosecutors, and Defendant Agents received numerous investigative leads they did not pursue.

769. As described elsewhere in this Complaint, Defendants did not follow up on the CODIS DNA matches.

770. Defendants did not interview Libler’s friends or family.

771. Defendants did not collect and search Libler’s computers.

772. Defendants did not search Libler’s home or car.

773. Defendants obtained some of Libler’s phone records from Verizon, but only from 2019 to December 2020.

774. Defendants who authored the Arrest Affidavit stated they received from Libler screenshots showing Costco receipts in Michigan on May 7, 9, and 11, 2020, but failed to report that those receipts were on his wife’s account, not Libler’s.

775. The Defendant Prosecutors' timetable was based on political concerns and motivations, and public pressure, not an adequate investigation.

776. Further acts and omissions demonstrating a reckless investigation are described throughout this Complaint and incorporated here by reference.

## E. CONSPIRACY BY ALL CODEFENDANTS

777. From May 2020 to present all Defendants met with each other and/or communicated by telephone, email, in-person conversations and meetings, and numerous other forms of communication.

778. Defendants kept communication logs and shared a computer database containing case information, reports, and information.

779. At all times relevant to this Complaint,

780. Defendants authoring the Arrest Affidavit, in a single-minded effort to obtain the arrest and prosecution of Barry and seizure of his property, no matter what the methods or contrary evidence, conspired with the other Defendants to manufacture probable cause that Barry had committed murder and they all conspired to fabricate evidence, conspired to withhold exculpatory evidence leading to Barry's unconstitutional arrest and prolonged prosecution.

781. All Defendants worked closely together, sharing information, strategizing, presenting false information and omitting exculpatory information

in the Arrest Affidavit in order to procure a wrongful arrest and prosecution of Mr. Morphew.

782. Defendants, individually and in a conspiracy with the other Defendants maliciously and purposely withheld exculpatory information from the judge and the defense.

### **F. ABSENT THE FALSE AND MISLEADING STATEMENTS, AND WITH THE OMITTED EXCULPATORY INFORMATION INCLUDED, THERE WOULD HAVE BEEN NO PROBABLE CAUSE**

783. The above false and misleading information and omitted exculpatory information described in this Complaint were material to a finding of probable cause.

784. The omitted information described in this Complaint, had it been included, would have vitiated and diluted any probable cause.

785. Had the false and misleading information described in this Complaint been excluded, probable cause would have been vitiated and diluted.

786. Some of the specific false and misleading information and/or the omitted information detailed above was so material that, standing alone, probable cause would have been vitiated and diluted had the false and misleading information been omitted and/or the exculpatory information included.

787. Barry's allegations are intended to be viewed collectively.

788. The cumulative impact of the false and misleading information and/or the omitted information was so material to the probable cause determination that, viewed cumulatively, individually, or in any combination, probable cause would not have existed in the Arrest Affidavit had the Defendants' misconduct not occurred.

## G. THE ARREST AND PROSECUTION OF BARRY

789. Upon review of the Arrest Warrant Affidavit, Chaffee County, Colorado Chief Judge Murphy found probable cause and set a no bond hold as requested by Defendant Prosecutors.

790. CCSD, including Defendants Spezze and Rohrich, arrested Barry on May 5, 2021. Defendant Stanley witnessed the arrest.

791. Barry remained incarcerated until he posted a $500,000.00 cash bond on September 20, 2021. Thereafter, he was subject to restrictive conditions of release, including an ankle GPS monitor, required weekly meetings with a pretrial services officer, an order that he not leave Chaffee County borders, and numerous other restrictions. He was subjected to intrusive and continuous monitoring by Defendants, including being monitored by a game camera posted by Defendant Walker near his home.

792. Formal charges were filed on May 18, 2021.

## H. CONTINUED MALICIOUS PATTERN OF DECEPTION

793. After filing of charges, Defendants continued to withhold exculpatory information and make false statements.

794. As explained above, on May 19, 2021, Defendant CBI Agent Duge sent Defendants CBI Agents Cahill, Burgess and Chris Adams a CODIS match letter via email indicating the unknown male DNA swabbed from the glovebox of Suzanne's Range Rover partially matched DNA found in three out-of-state unsolved sexual assault investigations in Tempe, Phoenix, and Chicago. ("The match letter").

795. The match letter was provided to the defense.

796. However, almost none of the underlying information was provided to the defense at that time.

797. The Preliminary Hearing was ultimately scheduled for and held on August 8, 9, 23, and 24, 2021.

798. In the months leading up to and during the Preliminary Hearing, Defendants had three meetings with law enforcement and CBI analysts to discuss the meaning of the CODIS match, its significance, and follow up investigation to rule out potential sources of the DNA.

799. These meetings included Defendant Officers, Defendant CBI Agents, Defendant FBI Agents, and Defendant Prosecutors.

800. Information tending to negate Barry's guilt and contradict probable cause was discussed.

801. However, nothing was reduced to writing.

802. Nothing was disclosed to the defense about any of the three meetings at that time.

803. On May 27, 2021, Mr. Morphew appeared on the filing of charges.

804. On May 27, 2021, the Court also addressed several motions filed by the defense related to discovery.

805. The Court ordered the People to produce all mandated and other discovery by June 2, 2021.

806. On June 2, 2021, the People produced a hard drive.

807. On June 24, 2021, Barry's attorneys filed a motion for discovery sanctions, arguing that the court rules and the court's orders had not been complied with.

808. On July 6, 2021, Defendant filed a Motion for a Contempt Citation, alleging discovery violations.

809. On July 22, 2021, the Court and parties held a discovery sanction hearing.

810. On July 22, 2021, the Court entered findings and conclusions, including that "there are violations here," Transcript of 7/22/2021, p. 56, and (on the same page) stated:

- [A]t this time I can't really find that it's a pattern. I'm hoping that this is just the result of the enormous amount of information that had to be disclosed within those few weeks, and **not a situation where as new evidence is being generated, new reports being generated, that there's a delay in providing those to the defense.**

- I'm glad that these discovery issues have been brought to my attention because if this does appear to be a pattern my response might be different going forward."

811. That is exactly what was happening. Defendants were continuing to meet, communicate, and plan what to do about the emerging DNA evidence, all the while, not disclosing these efforts to Barry Morphew or his defense team.

812. By this time, Defendant Mark Hurlbert had joined the prosecution team.

813. Defendant Hurlbert was involved in numerous of the meetings and conversations about the CODIS matches.

814. Defendant Hurlbert participated in the decisions to not disclose exculpatory information, to provide false and misleading information, and to delay Barry Morphew's discovery of the DNA investigation.

815. During the summer of 2021, Defendant Walker transferred from his position with the EJDAO and joined the CCSD.

## I. THE PRELIMINARY HEARING/PROOF EVIDENT AND PRESUMPTION GREAT HEARING

816. On August 9, 2021, the court commenced the preliminary hearing, combined with the "proof evident presumption great hearing." ("preliminary/PEPG").[15]

817. The People called the following witnesses at the Preliminary/PEPG Hearing: Alex Walker, Kenneth Harris, Jonathan Grusing, Derek Graham, Kevin Koback, and Andy Rohrich.

818. The People did not elicit any testimony concerning the foreign male DNA from any of these witnesses.

819. The defense ultimately called Defendant CBI Agent Cahill to present the information to the Court.

820. On September 17, 2021, the Court issued its ruling finding probable cause, but also finding that proof was not evident and the presumption not great.

---

[15] Article II, Section 19 of the Colorado Constitution provides: "All persons shall be bailable by sufficient sureties except for capital offenses, when the proof is evident or the presumption great." Section 16-4-101(1)(a), C.R.S., provides that all persons shall be bailable except "For capital offenses when proof is evident or presumption is great…" In Colorado, the hearing to determine whether the proof is evident or presumption is great are generally combined with the Preliminary Hearing.

821. Judge Murphy, who presided over the hearing, specifically found that the unknown male DNA profile was "particularly significant because while it doesn't prove a stranger abduction theory, it does at least support it." Transcript of 9/17/2021, pp. 65-66.

822. In April, 2022, Judge Ramsey Lama, who was by then presiding over the criminal prosecution, found:

> It is important to note that Chief Judge Murphy did not learn about the unknown foreign male DNA and CODIS matches in the Arrest Affidavit or through the People's elicited testimony at the PEPG and Preliminary Hearing. Over four days of testimony, the People did not discuss the CODIS matches throughout their case-in-chief. Chief Judge Murphy learned about the evidence because the defense presented it by calling and examining Agent Cahill.

823. Judge Lama found that "had the defense had all of the information surrounding the CODIS matches and related investigation, they may have decided to call witnesses or experts to negate any probable cause findings [at the preliminary/PEPG hearing]."

824. As described above, shortly after Defendant Cahill testified at the Preliminary/PEPG Hearing, Defendant Stanley contacted CBI to express her displeasure with Defendant Cahill's testimony at the Preliminary Hearing.

825. At the Preliminary/PEPG Hearing, Defendant Cahill, one of the lead detectives on the case, testified that he only reviewed 19 pages of the arrest affidavit. Transcript of 8/24/2021, p. 57:8-11 ("I believe it was around 126 [pages] of which I got to page 19").

826. That testimony was false.

827. As the state court judge later found, “disclosures indicated [Cahill] had reviewed it in its ‘entirety’ and even offered specific critiques to the affiant.”

## J. CONTINUING MISCONDUCT

### 1. *The alleged murder weapon*

828. Barry was charged both with charges related to Suzanne’s disappearance and a charge alleging that he possessed a dangerous firearm.

829. The defense moved to sever the trial of the firearm charge from the trial of the remaining charges.

830. On January 8, 2022, Defendant Stanley and co-conspirator Daniel Edwards filed in court a response that stated that "the possession of the short rifle is one method that the Defendant may have used in the murder" and that the darts found at the crime scene "can be shot from the dangerous weapon."

831. That statement was false.

832. On February 24, 2022, co-conspirator Robert Weiner handled oral argument on behalf of Defendant Stanley.

833. At the hearing on February 24, 2022, Mr. Weiner stated that the weapon at issue could not have been used to fire a tranquilizer as it was incapable of firing such a dart. Transcript of 2/24/2022, p. 109-110.

### *2. K-9 Pretrial Testimony*

834. On March 1, 2022, Defendant-prosecutors Stanley and Hurlbert filed a false statement with the Court in which they wrote that, at trial, K-9 handler Doug Spence would testify that "the dog kept trying to go in the direction of the Morphew residence but had to stop because he couldn't cross a creek."

835. On March 30, 2022, minutes prior to Mr. Spence's slated testimony at a *Daubert* hearing in the state criminal prosecution, Special Prosecutor Grosgebauer told the court that, actually, Mr. Spence would testify that the statement the defendant prosecutors had submitted to the court was false and that, in fact, Rosco did not pick up Suzanne's scent.

836. Grosgebauer said the prosecution would be withdrawing Mr. Spence as an expert.

837. Body Worn Camera footage capturing Mr. Spence's verbatim and nearly contemporaneous account of his dog alerting to Suzanne's scent where her bike was located.

838. Spence testified that it was not true that the scent continued on the other side of the creek and that, had the scent continued on the other side of the creek, Rosco would have gone into the creek, crossed it, and followed the scent.

### *3. Withholding exculpatory evidence*

839. The misconduct described in this Complaint continued throughout 2021 and 2022 until the point that the case was ultimately dismissed on April 19, 2022.

840. In late January 2022, following numerous court orders and motions, Defendant Prosecutors disclosed thousands of pages of exculpatory material to the defense.

841. The material disclosed exceeded 25,000 pages.

842. The vast majority of the pages consisted of emails, reports, and communications that occurred and/or were created before Barry's arrest.

843. Defendant Prosecutors did not disclose this material voluntarily, but were forced to do so by the Court.

844. Among the material that had not been disclosed were the facts about how the fabricated pushpin map had been created.

845. Among the material that had not been disclosed were the emails and reports documenting the unreliability of the “airplane mode” reports.

846. Among the material that had not been disclosed were emails that highlighted the static drift phenomenon described above in this Complaint.

847. Among the material that had not been disclosed were emails revealing the numerous meetings, conversations, and discussions among the CBI Defendants and Defendant Prosecutors.

848. Among the material that had not been disclosed was a December 2, 2020 email that disclosed that Defendants Walker, Rohrich, Hyjulien, Burgess, Cahill and Graham were informed about the CODIS match in Tempe, Arizona.

849. Among the material that had not been disclosed were the identities of the Defendants who had authored and revised the Arrest Affidavit.

850. Among the material that had not been disclosed were communications from Defendants Cahill and Graham to Defendants Camper, Schaeffer, and Lewis advising them that any imminent arrest of Barry Morphew was premature and the worst decision that could be made.

851. Among the material that had not been disclosed was proof that Defendant Duge had undergone a Quality Assurance Review involving her work on the Morphew case.

852. Among the material that had not been disclosed was the content of the Quality Assurance Review, including the fact that Defendant Duge had created the term "limited genetic profile" and that it was not a scientific term used in the field.

853. Among the material that had not been disclosed included the fact that Defendant Duge's supervisors agreed that the Tempe, Phoenix, and Illinois matches were well-founded.

854. Among the material that had not been disclosed was proof that, during the Preliminary/PEPG hearing, Defendant Lindsey had emailed Defendant Duge, requesting that she confer with Defendant Officers because they were concerned about the three CODIS matches.

855. Among the material that had not been disclosed were emails that documented that evidence and emails were being altered before being disclosed to the defense.

856. The reason that evidence and emails were being altered was to purposely conceal their concern about the items with unknown male DNA that still remain in the case.

857. An example of the evidence and emails that had been altered appears in the following comparison between two emails that were produced – one altered to remove the exculpatory information and one complete:

- Defendant Rogers had emailed Defendants Burgess, Cahill, and Graham, asking if [CCSD] Zach Tucker's DNA needed to be tested against all the DNA from the case. This part of the communication was disclosed on both emails provided.
- Defendant Cahill responded, "Good morning. I am not aware of any other physical evidence which [Deputy Tucker] may have been associated with the collection. Regards, Joe [Cahill]." This part of the communication was disclosed on both emails provided.
- However, Defendants had purposely redacted Defendant Burgess's response. Defendant Burgess agreed that it would be "great" if Tucker's DNA could be compared with all the DNA in the case, because Burgess "feel[s] like we still had a few unknowns…" This exculpatory part of the communication was purposely withheld.
- Apparently by accident, a copy of the un-altered email was produced with approximately 22,000 pages of and the defense had found the un-altered email to compare with the altered one received earlier.

858. Among the material that had not been disclosed was the November 2021 discovery of an "unresolved match" between the DNA swabbed from the glovebox of Suzanne's car and DNA from Maryland.

859. Among the material that had not been disclosed was a CODIS Briefing/Morphew Meeting for November 18, 2021 that had been convened by Defendant Schaefer.

860. The meeting of November 18, 2021 was a briefing regarding the testimony of Defendants CBI Agents Duge and Rogers at a pretrial hearing on November 9, 2021.

861. Multiple members of CBI Investigative and Laboratory personnel were present at the meeting of November 18, 2021, including Defendants Hurlbert and Walker.

862. Of the 10 agents invited to the Morphew meeting, the defense received notes from only two different attendees.

863. Those two attendees' notes were not produced to the defense until March 3, 2022.

864. At the November 18, 2021 meeting, Defendants attending the meeting agreed that the defense had received too much information from the CBI Communications Log and the Defendants agreed to cease or minimize note-taking so that the defense would not receive information.

865. Among the material provided was a July 16, 2021 email from an FBI expert who examined the computer data on Suzanne's Range Rover.

866. The July 16, 2021 email was not disclosed despite the state court's orders beginning on June 3, 2021.

867. The July 16, 2021 email was disclosed to the defense on January 26, 2022.

868. The email identifies the name and contact information of the FBI expert who had looked at the data from Suzanne's Range Rover was quite "promising."

869. The follow-up communications from the expert between the Defendants included a statement that the data could be very helpful.

870. The Range Rover download expert sent the downloaded data to the Defendants.

871. The Defendants had the data and did not produce the data.

872. Upon receiving the email, in late January 2022, the defense learned of this Range Rover download expert and demanded the Defendants produce the data.

873. The Defendants produced the data after another court order in March 2022.

874. There was no event data produced similar to what was produced with Barry's truck (i.e. door openings/closings, ignition on/off, lights on and off).

875. The FBI Range Rover download expert explained he was never asked to examine the Range Rover for event data.

876. If the Range Rover had any registered events on May 10, 2020, after 5:00 a.m., it would indicate that Suzanne was alive (and not killed on May 9, 2020 as the Defendants alleged) and accessing her own car, that the car had been driven, or there was an intruder who was in her Range Rover.

877. In March 2022, the Range Rover download expert explained he could not conduct such an examination without a formal request from one of his superiors and stated the examination was complicated and time-consuming and would take as long as the summer of 2022 to get started on such an examination.

878. As the above section shows the Defendant continued a pattern and practice of hiding exculpatory evidence, failing to investigate and/or recklessly investigating the case without any care for Mr. Morphew's Constitutional rights.

## K. DISMISSAL OF CHARGES

879. All charges against Barry were dismissed on April 19, 2022.

## L. CONTINUED WITHHOLDING OF BARRY'S PROPERTY

880. The Defendants Defendants Spezze, Stanley, Hurlbert, and the CCSD, had Mr. Morphew's property seized in and around 2020.

881. This property includes all items of physical evidence taken from the Morphew home as part of the law enforcement investigation into the disappearance of Suzanne Morphew.

882. The Defendants Defendants Spezze, Stanley, Hurlbert, and the CCSD, have been in possession of Barry Morphew's property for over two years.

883. The items have been photographed, swabbed, tested, and, if applicable, downloaded.

884. There is no link between the property to the location or circumstances of Mrs. Morphew's disappearance.

885. The property is not contraband.

886. The paper documents have been copied and preserved. The electronic items including the SD cards have been removed and copied, or downloaded by the prosecution's purported experts.

887. The only theory ever put forward by the prosecution regarding any weapon being utilized in the alleged murder was that perhaps a Dart Marlin

Rifle was involved; as it turns out, that rifle was tested by the prosecution's firearm expert in 2022, and it was inoperable.

888. Mr. Morphew does not request return of that item.

889. The above listed Defendants are purposely and knowingly withhold Mr. Morphews property in violation of his rights.

## IV. DAMAGES

890. As result of the Defendants' conduct Barry was charged, arrested, and prosecuted, and his property seized, for a crime he did not commit.

891. As result of the Defendants' conduct Barry spent five months in jail, approximately 6 more months wearing a GPS ankle monitor with severe restrictions on his movement, and almost a year defending against the criminal charges. To this date, Barry's property remains in the CCSD's possession.

892. Barry's name and reputation has been irreparably tarnished in Colorado and all around the country.

893. Barry suffered great anguish and emotional distress, including but not limited to depression, severe anxiety, chest pain and insomnia.

894. Barry suffered loss of familial association with his two daughters, one of which was 17-years-old when he was arrested and jailed.

895. Barry suffered great economic losses as a result of Defendants' actions, including the loss of his home, business, savings and much more.

## V. STATEMENT OF CLAIMS FOR RELIEF

### CLAIM ONE: 42 U.S.C. § 1983 and *Bivens*[16]
### Malicious Prosecution and unlawful detention

### Defendant Officers, Defendant Prosecutors, Defendant FBI Agents, and Defendants Cahill, Duge, Rogers, Graham, Koback, and Lewis

896. Mr. Morphew hereby incorporates all other paragraphs of this Complaint as if fully set forth herein and relies upon them in setting forth this claim.

897. In the manner described more fully above, all Defendant Officers, Defendant Prosecutors, and Defendant FBI Agents, and Defendants Cahill, Duge, Rogers, Graham, Koback, and Lewis, individually, jointly, and in conspiracy with one another and/or with other unknown CCSD officers, FBI and/or CBI Agents, and/or other personnel at the EJDAO, acting under color of law and within the scope of their employment, deprived Barry Morphew of his

---

[16] *Bivens v. Six Unknown Fed. Narcotics Agents*, 403 U.S. 388 (1971)

constitutional rights, including his right to be free from malicious prosecution when they: (1) fabricated evidence and manufactured inculpatory evidence; (2) manipulated witness testimony; (3) suppressed exculpatory evidence; (4) omitted exculpatory evidence and lied in the Arrest Affidavit and (5) falsified charges in order to arrest and prosecute Barry Morphew without probable cause, resulting in his unlawful detention and the damages set forth herein.

898. The Defendants accused Barry Morphew of criminal activity and exerted influence to initiate, continue, and perpetuate judicial proceedings against him without any probable cause for doing so, in violation of his rights secured by the Fourth Amendment and the procedural and substantive due process components of the Fourteenth Amendment.

899. In so doing, the Defendants knowingly, maliciously, and/or recklessly caused Mr. Morphew to be unreasonably seized and improperly subjected to judicial proceedings for which there was no probable cause.

900. The proceedings were ultimately terminated in Barry Morphew’s favor when all charges against him were dismissed on April 19, 2022.

901. Defendants subjected Barry Morphew to unauthorized, arbitrary, and malicious governmental action that shocks the conscience in that he was deliberately and intentionally framed for a crime of which he was innocent, through the Defendants’ fabrication, suppression, and withholding of evidence.

902. The acts and omissions of Defendants were objectively unreasonable and undertaken intentionally, maliciously, and with reckless indifference to the rights of others, and in reckless disregard of the truth and Mr. Morphew's innocence.

903. Even though each Defendant had an affirmative duty to intervene to protect Barry Morphew and and prevent his constitutional rights from infringement by the others, and even though each had the opportunity to intervene and prevent the harm, each Defendant failed to take reasonable steps to intervene in other Defendants' unconstitutional conduct.

904. The misconduct described in this Count was committed not only by Defendants acting in their individual capacities, but also by final policymakers and pursuant to the policy and practice of the CCSD, the EDJDAO, and Chaffee County, Colorado as set forth in more detail in Claim Eight below (*Monell* Claim).

905. As a proximate result of Defendants' unlawful conduct, Barry Morphew was arrested, held in custody until he was able to bond out, and lived under bond conditions for over eleven months and suffered severe actual physical and emotional injuries and other damages and losses as described herein, entitling him to compensatory and special damages, including loss of past and future income and loss of earning capacity, loss of property, attorney's

fees, and punitive damages, and causing him to continue to incur further economic or other special damages, in amounts to be established at trial.

906. Barry Morphew is further entitled to attorney's fees and costs pursuant to 42 U.S.C. § 1988, pre-judgment interest and costs as allowable by federal law.

## **CLAIM TWO : 42 U.S.C. § 1983 Due Process and *Bivens***
## **– Fabrication of Evidence –**
## **Defendants Walker, Cahill, Graham, Rohrich**
## **Defendant Prosecutors, Defendant FBI Agents**

907. Mr. Morphew hereby incorporates all other paragraphs of this Complaint as if fully set forth herein and relies upon them in setting forth this claim.

908. In the manner described more fully above, Defendants authoring the Arrest Affidavit, individually, jointly, and in conspiracy with one another and/or with other unknown CCSD officers, FBI and/or CBI Agents, and/or other personnel at the EJDAO, acting under color of law and within the scope of their employment, knowingly or recklessly deprived Barry Morphew of his constitutional right to liberty and due process by fabricating what became known as the "pushpin map" that fictitiously "documented" Barry Morphew's movements around his property on the afternoon of May 9, 2020.

909. These Defendants fabricated evidence and solicited false testimony implicating Mr. Morphew in the crime that they knew was false; obtained Mr. Morphew's prosecution and incarceration using that false evidence; knowingly withheld exculpatory evidence and fabricated evidence; and failed to correct fabricated evidence that they knew to be false when it was used against Mr. Morphew to effectuate his arrest, detention, and prosecution.

910. Even though each Defendant had an affirmative duty to intervene to protect Barry Morphew and and prevent his constitutional rights from infringement by the others, and even though each had the opportunity to intervene and prevent the harm, each Defendant failed to take reasonable steps to intervene in other Defendants' unconstitutional conduct.

911. Defendants' misconduct resulted directly in the unjust criminal detention and prosecution of Barry Morphew, thereby denying his constitutional right to be free of an unreasonable seizure as guaranteed by the Fourth Amendment and his right to substantive and procedural due process as guaranteed by the Fourteenth Amendment.

912. The misconduct described in this Count was objectively unreasonable and was undertaken intentionally, with malice, with reckless indifference to the rights of others, and in reckless disregard of the truth and Mr. Morphew's clear innocence.

913. The misconduct described in this Count was committed not only by Defendants acting in their individual capacities, but also by final policymakers and pursuant to the policy and practice of the CCSD, the EDJDAO, and Chaffee County, Colorado as set forth in more detail in Claim Eight below (*Monell* Claim).

914. As a proximate result of Defendants' unlawful conduct, Barry Morphew was arrested, held in custody until he was able to bond out, and lived under bond conditions for over eleven months and suffered severe actual physical and emotional injuries and other damages and losses as described herein, entitling him to compensatory and special damages, including loss of past and future income and loss of earning capacity, loss of property, attorney's fees, and punitive damages, and causing him to continue to incur further economic or other special damages, in amounts to be established at trial.

915. Barry Morphew is further entitled to attorney's fees and costs pursuant to 42 U.S.C. § 1988, pre-judgment interest and costs as allowable by federal law.

## CLAIM THREE: 42 U.S.C. § 1983 Due Process and *Bivens* – *Franks* Claim -

## Defendants who authored the Arrest Affidavit

## Defendant Walker, Defendant Prosecutors Stanley and Lindsey, Defendant CBI Agent Cahill, Defendant Officers Rohrich, Spezze, and Graham, Defendant FBI Agents Grusing and Harris

916. Barry Morphew hereby incorporates all other paragraphs of this Complaint as if fully set forth herein and relies upon them in setting forth this claim.

917. Defendants who authored the Arrest Affidavit, individually, jointly, and in conspiracy with one another and/or with other unknown CCSD officers, FBI and/or CBI Agents, and/or other personnel at the EJDAO, acting under color of law and within the scope of their employment, deprived Barry Morphew of his constitutional rights under *Franks v. Delaware*, 438 U.S. 154 (1978) and the Fourth and Fourteenth Amendments by knowingly and intentionally, or with reckless disregard for the truth, causing false statements to be included in the Arrest Affidavit and causing exculpatory facts to be omitted; and, had they not done, probable cause would have been vitiated or diluted.

918. The misconduct described in this Count was committed not only by Defendants acting in their individual capacities, but also by final policymakers and pursuant to the policy and practice of the CCSD, the

EDJDAO, and Chaffee County, Colorado as set forth in more detail in Claim Eight below (*Monell* Claim).

919. Even though each Defendant had an affirmative duty to intervene to protect Barry Morphew and prevent his constitutional rights from infringement by the others, and even though each had the opportunity to intervene and prevent the harm, each Defendant failed to take reasonable steps to intervene in other Defendants' unconstitutional conduct.

920. As a proximate result of Defendants' unlawful conduct, Barry Morphew was arrested, held in custody until he was able to bond out, and lived under bond conditions for over eleven months and suffered severe actual physical and emotional injuries and other damages and losses as described herein, entitling him to compensatory and special damages, including loss of past and future income and loss of earning capacity, loss of property, attorney's fees, and punitive damages, and causing him to continue to incur further economic or other special damages, in amounts to be established at trial.

921. Barry Morphew is further entitled to attorney's fees and costs pursuant to 42 U.S.C. § 1988, pre-judgment interest and costs as allowable by federal law.

## **CLAIM FOUR: 42 U.S.C. § 1983 and *Bivens***
## **– Conspiracy –**
## **All Defendants**

922. Barry Morphew hereby incorporates all other paragraphs of this Complaint as if fully set forth herein and relies upon them in setting forth this claim.

923. All Defendants, individually, jointly, and in conspiracy with one another and/or with other unknown CCSD officers, FBI and/or CBI Agents, and/or other personnel at the EJDAO, acting under color of law and within the scope of their employment, conspired among and between themselves and took overt acts in furtherance of a conspiracy to deprive Barry Morphew of his due process rights and his right to be free from seizure, incarceration, deprivation of property and restrictions on liberty, to fabricate evidence against him, to manipulate witness testimony, to suppress, conceal and omit exculpatory evidence, to falsify charges, to commit the misconduct described in this Complaint, and to conceal the knowing and reckless misconduct and to protect one another from liability for depriving Barry Morphew of his constitutional rights.

924. In so doing, these Defendants conspired to accomplish an unlawful purpose by unlawful means.

925. In furtherance of their conspiracy, each Defendants committed overt acts and were otherwise willful participants in joint activity.

926. The misconduct of the Defendants was objectively unreasonable and was undertaken maliciously and willfully, with reckless indifference to the rights of others and in total disregard of the truth and Mr. Morphew's innocence.

927. This conspiracy spanned from approximately May 2020 and continues today.

928. Even though each Defendant had an affirmative duty to intervene to protect Barry Morphew and and prevent his constitutional rights from infringement by the others, and even though each had the opportunity to intervene and prevent the harm, each Defendant failed to take reasonable steps to intervene in other Defendants' unconstitutional conduct or to prevent the conspiracy and/or its overt acts.

929. The misconduct described in this Count was committed not only by Defendants acting in their individual capacities, but also by final policymakers and pursuant to the policy and practice of the CCSD, the EDJDAO, and Chaffee County, Colorado as set forth in more detail in Claim Eight below (*Monell* Claim).

930. As a proximate result of Defendants' unlawful conduct, Barry Morphew was arrested, held in custody until he was able to bond out, and lived under bond conditions for over eleven months and suffered severe actual physical and emotional injuries and other damages and losses as described

herein, entitling him to compensatory and special damages, including loss of past and future income and loss of earning capacity, loss of property, attorney's fees, and punitive damages, and causing him to continue to incur further economic or other special damages, in amounts to be established at trial.

931. Barry Morphew is further entitled to attorney's fees and costs pursuant to 42 U.S.C. § 1988, pre-judgment interest and costs as allowable by federal law.

## CLAIM FIVE: 42 U.S.C. § 1983
## – Due Process – Unlawful retention of property
## Defendants Spezze, Stanley, Hurlbert, and the CCSD

932. Barry Morphew hereby incorporates all other paragraphs of this Complaint as if fully set forth herein and relies upon them in setting forth this claim.

933. Even though the case against Barry has been dismissed, Defendants CCSD, Stanley, Hurlbert, and Spezze, individually, jointly, and in conspiracy with one another and/or with others unknown to Mr. Morphew, acting under color of law and within the scope of their employment, and acting intentionally, knowingly, unlawfully and unconstitutionally, have *continued* to deprive Barry Morphew of his property even though all charges were dismissed on April 19, 2022.

934. Barry's property remains in the possession of CCSD and Defendant Spezze.

935. Barry Morphew has no remedy under State Law.

936. The misconduct described in this Count was committed not only by Defendants acting in their individual capacities, but also by final policymakers and pursuant to the policy and practice of the CCSD, the EDJDAO, and Chaffee County, Colorado as set forth in more detail in Claim Eight below (*Monell* Claim).

937. As a proximate result of Defendants' unlawful conduct, Barry Morphew has suffered actual physical and emotional injuries, loss of his property, and other damages and losses as described herein entitling him to compensatory and special damages, including loss of past and future income and loss of earning capacity, attorney's fees, and punitive damages, and may continue to incur further economic or other special damages, in amounts to be established at trial.

938. Barry Morphew is further entitled to attorney's fees and costs pursuant to 42 U.S.C. § 1988, pre-judgment interest and costs as allowable by federal law.

## CLAIM SIX: 42 U.S.C. § 1983 and *Bivens*
## – Failure to Intervene –
## All Defendants

939. Barry Morphew hereby incorporates all other paragraphs of this Complaint as if fully set forth herein and relies upon them in setting forth this claim.

940. Each of the Defendants, together with other persons presently unknown, had an affirmative duty to intervene to protect Mr. Morphew and and prevent his constitutional rights from infringement by the others.

941. Each Defendant violated the affirmative duty to intervene to protect the constitutional rights of citizens from infringement by other persons acting under color of state law. During the constitutional violations described herein, all Defendants stood by without intervening to prevent the violation of Mr. Morphew's constitutional rights, even though each had the knowledge and an opportunity to do so.

942. Each Defendant's failure to intervene was objectively unreasonable and was undertaken intentionally, with malice, with reckless indifference to the violation of Mr. Morphew's constitutional rights.

943. The misconduct described in this Count was committed not only by Defendants acting in their individual capacities, but also by final policymakers and pursuant to the policy and practice of the CCSD, the

EDJDAO, and Chaffee County, Colorado as set forth in more detail in Claim Eight below (*Monell* Claim).

944. As a proximate result of Defendants' unlawful conduct, Mr. Morphew was arrested, held in custody until he was able to bond out, and lived under bond conditions for over eleven months and suffered severe actual physical and emotional injuries and other damages and losses as described herein, entitling him to compensatory and special damages, including loss of past and future income and loss of earning capacity, loss of property, attorney's fees, and punitive damages, and causing him to continue to incur further economic or other special damages, in amounts to be established at trial.

945. Barry Morphew is further entitled to attorney's fees and costs pursuant to 42 U.S.C. § 1988, pre-judgment interest and costs as allowable by federal law.

## **CLAIM SEVEN: 42 U.S.C. § 1983 and *Bivens***
## **– Reckless Investigation –**
## **Defendants CCSD, Defendant Officers, Defendant CBI Agents Cahill, Duge, Rogers, Graham, Koback, Defendant FBI Agents, and Defendant Prosecutors**

946. Barry Morphew hereby incorporates all other paragraphs of this Complaint as if fully set forth herein and relies upon them in setting forth this claim.

947. Although Defendants knew or should have known that Mr. Morphew was not involved in the disappearance of Suzanne, they conducted a reckless investigation, coerced false and misleading statements, fabricated evidence, concealed exculpatory information from judges and prosecutors, placed false statements in reports and Affidavits, made false statements in conversations with prosecutors, and in pretrial testimony, suppressed the exculpatory evidence that they had engaged in such wrongdoing, disregarded, concealed, and withheld evidence indicating that Mr. Morphew was innocent and evidence pointing to other leads or suspects, and knowingly, recklessly and with reckless disregard for Mr. Morphew's innocence and constitutional rights committed the acts described in this Complaint.

948. These fraudulent, outrageous, and egregious acts robbed Barry Morphew of fundamental fairness in the investigation, prosecution, and pretrial

proceedings to a degree that shocks the conscience, violating Mr. Morphew's clearly-established constitutional right to substantive due process of law as guaranteed by the Fourteenth Amendment and causing him the injuries and damages set forth in this Complaint, to the magnitude of potential and actual harm that is truly conscience shocking.

949. Even though each Defendant had an affirmative duty to intervene to protect Mr. Morphew and and prevent his constitutional rights from infringement by the others, and even though each had the opportunity to intervene and prevent the harm, each Defendant failed to take reasonable steps to intervene in other Defendants' unconstitutional conduct.

950. The misconduct described in this Count was committed not only by Defendants acting in their individual capacities, but also by final policymakers and pursuant to the policy and practice of the CCSD, the EDJDAO, and Chaffee County, Colorado as set forth in more detail in Claim Eight below (*Monell* Claim).

951. As a proximate result of Defendants' unlawful conduct, Mr. Morphew was arrested, held in custody until he was able to bond out, and lived under bond conditions for over eleven months and suffered severe actual physical and emotional injuries and other damages and losses as described herein, entitling him to compensatory and special damages, including loss of

past and future income and loss of earning capacity, loss of property, attorney's fees, and punitive damages, and causing him to continue to incur further economic or other special damages, in amounts to be established at trial.

952. Barry Morphew is further entitled to attorney's fees and costs pursuant to 42 U.S.C. § 1988, pre-judgment interest and costs as allowable by federal law.

## CLAIM EIGHT: 42 U.S.C. § 1983 – *Monell* *- Final Policymakers, Ratification, Unconstitutional Official Policy and Failure to Supervise and Train*

### Against Chaffee County, Board of County Commissioners of Chaffee County, CCSD, Defendant Stanley acting in her official capacity, and Defendant Spezze acting in his official capacity

953. Barry Morphew hereby incorporates all other paragraphs of this Complaint as if fully set forth herein and relies upon them in setting forth this claim.

### A. Failure to Train and Supervise

954. Defendants Chaffee County, Board of County Commissioners of Chaffee County, CCSD, Defendant Stanley acting in her official capacity, and Defendant Spezze acting in his official capacity each have duties to train and supervise officers, investigators, and other personnel.

955. These Defendants all intentionally and/or recklessly and with deliberate indifference to the constitutional rights of citizens, failed to ensure

through custom, policy, practice, training, and supervision that officers and personnel would conduct constitutionally adequate investigations; not fabricate inculpatory evidence; ensure that suspects would not be maliciously prosecuted; ensure that applications for arrest warrants would not contain false and misleading information and/or omit exculpatory information; disclose to prosecutors and courts material information favorable to criminal defendants; follow the duties imposed by *Franks v. Delaware*; conduct appropriate testing and properly handle, process, analyze, and report forensic evidence; not utilize forensic evidence in a false and reckless manner in criminal investigations and prosecutions, intervene to prevent constitutional violations and ensure that their personnel would not conspire to do any of the above.

956. Defendants Chaffee County, Board of County Commissioners of Chaffee County, Defendant Stanley acting in her official capacity, and Defendant Spezze acting in his official capacity, and the CCSD and/or other final policymakers had actual or constructive notice of such failures to train, supervise, and provide policy to their employees, and failed to provide training or supervision despite an obvious need that such training and supervision was required, where Defendants knew that it was foreseeable that officers and personnel would predictably confront these situations and as a result of the failure to train and supervise, constitutional violations would result.

## B. Policy or Custom

957. Defendants Chaffee County, Board of County Commissioners of Chaffee County, Defendant Stanley acting in her official capacity, and Defendant Spezze acting in his official capacity and CCSD through their final policymakers developed and maintained policies or customs exhibiting deliberate indifference to the constitutional rights of Barry Morphew, which caused the violation of his rights as described in this Complaint.

958. Mr. Morphew's injuries were caused by the policies, practices, and customs of the CCSD, Board of County Commissioners of Chaffee County and Chaffee County, Defendant Stanley acting in her official capacity, and Defendant Spezze acting in his official capacity in that final policymakers, officers, agents and other personnel of the CCSD, Board of County Commissioners of Chaffee County and Chaffee County regularly failed to disclose exculpatory evidence to prosecutors, fabricated false evidence implicating criminal defendants in criminal conduct, pursued wrongful prosecutions through profoundly flawed investigations, and otherwise violated due process and the Fourth Amendment in a similar manner to that alleged herein.

959. The above-described widespread practices, which were so well-settled as to constitute the de facto policy of the CCSD, Board of County

Commissioners of Chaffee County, Defendant Stanley acting in her official capacity, and Defendant Spezze acting in his official capacity and Chaffee County, were allowed to exist because municipal policymakers with authority over the same exhibited deliberate indifference to the risk that these policies, practices, and customs would lead to the violation of citizens' constitutional rights, effectively ratified the conduct, and declined to implement sufficient training or any legitimate mechanism for oversight or punishment of officers, agents, and personnel who withheld material evidence, fabricated false evidence and witness testimony, conducted reckless investigations, inserted into Affidavits for Arrest and Search Warrants false and misleading information while omitting exculpatory information, and pursued wrongful prosecutions.

### C. Ratification

960. Defendant Spezze and Defendant Stanley ratified and authorized the misconduct and reckless investigation that caused violation of Barry Morphew’s constitutional rights described in this Complaint. Defendant Spezze’s ratification constituted the official policy of Chaffee County, Board of County Commissioners of Chaffee County and CCSD, and Defendant Stanley’s ratification constituted the official policy of the EJDAO.

### D. Misconduct by Final Policymakers

961. Barry Morphew was deprived of his constitutional rights as described in this Complaint by the acts and omissions of Chaffee County, Board of County Commissioners of Chaffee County, the CCSD, Defendant Stanley acting in her official capacity as a final policymaker, and Defendant Spezze acting in his official capacity as a final policymaker.

### E. Proximate Cause of Damages

962. As a proximate result of Defendants' unlawful conduct, Barry Morphew was arrested, held in custody until he was able to bond out, and lived under bond conditions for over eleven months and suffered severe actual physical and emotional injuries and other damages and losses as described herein, entitling him to compensatory and special damages, including loss of past and future income and loss of earning capacity, loss of property, attorney's fees, and punitive damages, and causing him to continue to incur further economic or other special damages, in amounts to be established at trial.

963. Barry Morphew is further entitled to attorney's fees and costs pursuant to 42 U.S.C. § 1988, pre-judgment interest and costs as allowable by federal law.

## STATE LAW CLAIMS

### CLAIM NINE: Malicious Prosecution (state law) Colo. Rev. Stat. § 13-21-131 – Violation of Colo. Const. Art. II, Section 7 (Unlawful Seizure), Section 25 (due process), Section 3 (inalienable rights)

### Defendant Officers, Defendant Prosecutors, and Defendants Cahill, Duge, Rogers, Graham, Koback, and Lewis

964. Mr. Morphew hereby incorporates all other paragraphs of this Complaint as if fully set forth herein and relies upon them in setting forth this claim.

965. At all times relevant to the allegations in this Complaint, Barry Morphew had the clearly established constitutional right to be free from malicious prosecution. Any reasonable law enforcement officer, including Defendants in this case, knew or should have known of these rights.

966. Defendants violated Barry Morphew's rights under the Colorado Constitution (Article II, sections 3, 7, and 25) to be free from malicious prosecution without probable cause when they, among other things: (1) fabricated evidence; (2) manipulated witness testimony; (3) suppressed exculpatory evidence; (4) omitted exculpatory evidence, (5) lied in the Arrest Affidavit, (6) falsified charges in order to arrest and prosecute Barry Morphew

without probable cause, resulting in his unlawful confinement and continued prosecution, and (7) concealed their misconduct and that of others.

967. All charges against Barry Morphew were dismissed on April 19, 2022.

968. The conduct of Defendants was malicious, shocking, and objectively unreasonable considering the circumstances.

969. The actions of each of the Defendants were instrumental in Mr. Morphew's confinement and prosecution.

970. Defendants engaged in a collective plan or effort to seize Barry Morphew without probable cause, or alternatively, each Defendant failed to take reasonable steps to intervene in the other Defendants' unlawful seizure and prosecution of Mr. Morphew and seizure of his property, despite being in a position and having the opportunity to do so. Each is therefore liable for the damages resulting from the objectively unlawful and unreasonable arrest and seizure of Barry Morphew.

971. Defendants reached an explicit or implicit understanding, engaged in a course of conduct, acted in concert, and/or otherwise conspired among themselves to deprive Barry Morphew of his constitutional rights, including the right to be free from seizure based on false statements or omissions of material statements of fact. Each acted to advance a clear common goal and/or implicitly

agreed to conceal material information from important decision-makers regarding Barry Morphew's confinement and prosecution and seizure of his property.

972. Defendants intentionally subjected or caused Barry Morphew to be subjected to the deprivation of individual rights secured by the bill of rights of the Colorado Constitution. In the alternative, they did so recklessly.

973. The acts or omissions of the Defendants were the proximate cause of injuries sustained by Barry Morphew.

974. A reasonable person in each of the Defendants' positions would know that Barry Morphew's state constitutional rights were being violated and that he was being subjected to the violations and damages outlined in this Complaint.

975. Each of the Defendants had an affirmative duty to intervene to protect Barry Morphew and and prevent his constitutional rights from infringement by the others. Each Defendant had the opportunity to intervene and prevent the harm but failed to take reasonable steps to intervene in other Defendants' unconstitutional conduct.

976. The acts or omissions of Defendants deprived Barry Morphew of his constitutional and statutory rights and caused him severe damages.

977. Defendant Sheriff Spezze is liable for the acts and omissions of Defendants Rohrich, Burgess, Carricato, Himschoot, Hyjulien, Plackner, and (while he was employed at CCSD) Defendant Walker, who were acting within the scope and course of their employment.

978. Defendant Linda Stanley is liable for the acts and omissions of Defendants Lindsey, Hurlbert, and (while he was employed by the EJDAO), Defendant Alex Walker, who were acting within the scope and course of their employment.

979. The Defendants’ conduct described herein was attended by circumstances of malice, or willful and wanton conduct, which the Defendants must have realized was done heedlessly and recklessly, without regard to the consequences, or of the rights of others, particularly Mr. Morphew.

980. As a proximate result of Defendants’ unlawful conduct, Barry Morphew was arrested, held in custody until he was able to bond out, and lived under bond conditions for over eleven months and suffered severe actual physical and emotional injuries and other damages and losses as described herein, entitling him to compensatory and special damages, including loss of past and future income and loss of earning capacity, loss of property, attorney’s fees, and punitive damages, and causing him to continue to incur

further economic or other special damages, in amounts to be established at trial.[17]

981. Barry Morphew is further entitled to attorney's fees and costs pursuant to § 13-21-131(3), C.R.S., as well as prejudgment interest and postjudgment interest as provided by law.

## CLAIM TEN: Fabrication of Evidence Colo. Rev. Stat. § 13-21-131 – Violation of Colo. Const. Art. II, Section 7 (Unlawful Seizure), Section 25 (due process), Section 3 (inalienable rights)

### Defendants Officers, CBI Agents and Defendant Prosecutors

982. Barry Morphw hereby incorporates all other paragraphs of this Complaint as if fully set forth herein and relies upon them in setting forth this claim.

983. Defendants individually and in concert with others, as well as under color of law and within the scope of their employment, acted intentionally or recklessly, with willful indifference to Mr. Morphew's constitutional rights, and deprived Mr. Morphew of his constitutional right to due process, liberty, and right to defend his liberty by knowingly withholding exculpatory evidence and fabricating or manufacturing inculpatory evidence.

---

[17] Mr. Morphew seeks declaratory and injunctive relief against Defendant Chaffee County Sheriff's Office.

Absent this misconduct, the prosecution of Barry Morphew could not and would not have occurred.

984. Defendants who authored the Arrest Affidavit, knowingly and intentionally, or with reckless disregard for the truth, included false and misleading statements in the Arrest Affidavit and purposely omitted exculpatory evidence.

985. All charges against Barry Morphew were dismissed on April 19, 2022.

986. Defendants engaged in a collective plan or effort to seize Barry Morphew without probable cause, or alternatively, each Defendant failed to take reasonable steps to intervene in the other Defendants' unlawful seizure and prosecution of Barry Morphew and seizure of his property, despite being in a position and having the opportunity to do so. Each is therefore liable for the damages resulting from the objectively unlawful and unreasonable arrest and seizure of Barry Morphew.

987. Defendants reached an explicit or implicit understanding, engaged in a course of conduct, acted in concert, and/or otherwise conspired among themselves to deprive Barry Morphew of his constitutional rights as described in this Complaint, including the right to be free from seizure, prosecution, and deprivation of property based on false statements or omissions of material

statements of fact. Each acted to advance a clear common goal and/or implicitly agreed to conceal material information from important decision-makers regarding Barry Morphew's confinement and prosecution and seizure of his property.

988. Each of the Defendants had an affirmative duty to intervene to protect Barry Morphew and and prevent his constitutional rights from infringement by the others. Each Defendant had the opportunity to intervene and prevent the harm but failed to take reasonable steps to intervene in other Defendants' unconstitutional conduct.

989. The acts or omissions of Defendants intentionally deprived Barry Morphew of his constitutional and statutory rights and caused him severe damages.

990. Defendants subjected or caused Barry Morphew to be subjected to the deprivation of individual rights secured by the bill of rights of the Colorado Constitution.

991. Defendant Sheriff Spezze is liable for the acts and omissions of the CCSD officers and personnel, who were acting within the scope and course of their employment.

992. Defendant Linda Stanley is liable for the acts and omissions of Defendant Prosecutors and (while he was employed at EJDAO), Defendant

Alex Walker. These Defendants were acting within the scope and course of their employment.

993. The Defendants’ conduct described herein was attended by circumstances of malice, or willful and wanton conduct, which the Defendants must have realized was dangerous, or that was done heedlessly and recklessly, without regard to the consequences, or of the rights and safety of others, particularly Mr. Morphew.

994. As a proximate result of Defendants’ unlawful conduct, Barry Morphew was arrested, held in custody until he was able to bond out, and lived under bond conditions for over eleven months and suffered severe actual physical and emotional injuries and other damages and losses as described herein, entitling him to compensatory and special damages, including loss of past and future income and loss of earning capacity, loss of property, attorney’s fees, and punitive damages, and causing him to continue to incur further economic or other special damages, in amounts to be established at trial.[18]

995. Mr. Morphew is further entitled to attorney’s fees and costs pursuant to §13-21-131(3), C.R.S. as well as prejudgment interest and postjudgment interest as provided by law.

---

[18] Mr. Morphew seeks declaratory and injunctive relief against Defendant Chaffee County Sheriff’s Office.

## CLAIM ELEVEN: False and Misleading Information in an Arrest Warrant Affidavit and Omission and Concealment of Exculpatory Information (state law)

### Colo. Rev. Stat. § 13-21-131 – Violation of Colo. Const. Art. II, Section 7 (Unlawful Seizure), Section 25 (due process), Section 3 (inalienable rights)

### Defendant Walker, Defendant Prosecutors Stanley and Lindsey, Defendant CBI Agent Cahill, Defendant Officers Rohrich, Spezze, and Graham

996. Mr. Morphew hereby incorporates all other paragraphs of this Complaint as if fully set forth herein and relies upon them in setting forth this claim.

997. Defendants who authored the Arrest Affidavit, individually and in concert with others, acting under color of law and within the scope of their employment, deprived Mr. Morphew of his constitutional rights under Colorado Constitution, Article II, Section 7 to be free from unreasonable seizures and under Sections 3 and 25 to due process of law by knowingly or, with reckless disregard for the truth, causing false statements to be included in the Arrest Affidavit that, if omitted, would have vitiated or diluted probable cause, and by knowingly or recklessly causing facts to be omitted that, if included, would have vitiated or diluted probable cause.

998. Defendants' nondisclosure of exculpatory evidence and insertion of false, fabricated and misleading evidence caused Barry Morphew's arrest and prosecution and deprivation of his property.

999. Each of the Defendants had an affirmative duty to intervene to protect Barry Morphew and and prevent his constitutional rights from infringement by the others. Each Defendant had the opportunity to intervene and prevent the harm but failed to take reasonable steps to intervene in other Defendants' unconstitutional conduct.

1000. As a proximate result of Defendants' unlawful and unconstitutional conduct, Barry Morphew was arrested, prosecuted, and held in custody until he was able to bond out, and his property was seized.

1001. All charges against Barry Morphew were dismissed on April 19, 2022.

1002. Defendants engaged in a collective plan or effort to seize Barry Morphew without probable cause, or alternatively, each Defendant failed to take reasonable steps to intervene in the other Defendants' unlawful seizure and prosecution of Barry Morphew and seizure of his property, despite being in a position and having the opportunity to do so. Each is therefore liable for the damages resulting from the objectively unlawful and unreasonable arrest and seizure of Barry Morphew.

1003. Defendants reached an explicit or implicit understanding, engaged in a course of conduct, acted in concert, and/or otherwise conspired among themselves to deprive Barry Morphew of his constitutional rights, including the right to be free from seizure based on an Arrest Affidavit containing false statements or omissions of material statements of fact. Each acted to advance a clear common goal and/or implicitly agreed to conceal material information from important decision-makers regarding Barry Morphew's confinement and prosecution and seizure of his property.

1004. The acts or omissions of Defendants subjected or caused Barry Morphew to be subjected to the deprivation of individual rights secured by the bill of rights of the Colorado Constitution. The acts or omissions of the Defendants were the moving force behind and the proximate cause of substantial injuries sustained by Barry Morphew.

1005. Defendant Sheriff Spezze is liable for the acts and omissions of the CCSD officers and employees, who acted within the scope and course of their employment.

1006. Defendant Linda Stanley is liable for the acts and omissions of her employees and agents, who acted within the scope and course of their employment.

1007. The Defendants' conduct described herein was attended by circumstances of malice, or willful and wanton conduct, which the Defendants must have realized would cause constitutional violations, or it was done heedlessly and recklessly, without regard to the consequences, or of the rights and safety of others, particularly Barry Morphew.

1008. As a proximate result of Defendants' unlawful conduct, Barry Morphew was arrested, held in custody until he was able to bond out, and lived under bond conditions for over eleven months and suffered severe actual physical and emotional injuries and other damages and losses as described herein, entitling him to compensatory and special damages, including loss of past and future income and loss of earning capacity, loss of property, attorney's fees, and punitive damages, and causing him to continue to incur further economic or other special damages, in amounts to be established at trial.[19]

1009. Barry Morphew is further entitled to attorney's fees and costs pursuant to § 13-21-131(3), C.R.S. as well as prejudgment interest and postjudgment interest as provided by law.

---

[19] Mr. Morphew seeks declaratory and injunctive relief against Defendant Chaffee County Sheriff's Office.

## CLAIM TWELVE: Conspiracy (state law) Colo. Rev. Stat. § 13-21-131 – Violation of Colo. Const. Art. II, Section 7 (Unlawful Seizure), Section 25 (due process), Section 3 (inalienable rights)

**Defendants CCSD, Defendant Officers, Defendant CBI Agents, Defendant Prosecutors**

1010. Mr. Morphew hereby incorporates all other paragraphs of this Complaint as if fully set forth herein and relies upon them in setting forth this claim.

1011. All Defendants, individually, jointly, and in conspiracy with one another and/or with other unknown CCSD officers, FBI and/or CBI Agents, and/or other personnel at the EJDAO, acting under color of law and within the scope of their employment, conspired among and between themselves and took overt acts in furtherance of a conspiracy to deprive Barry Morphew of his due process rights and his right to be free from seizure, incarceration, deprivation of property and restrictions on liberty, to fabricate evidence against him, to manipulate witness testimony, to suppress, conceal and omit exculpatory evidence, to falsify charges, to commit the misconduct described in this Complaint, and to conceal the knowing and reckless misconduct and to protect one another from liability for depriving Barry Morphew of his constitutional rights.

1012. In so doing, these Defendants conspired to accomplish an unlawful purpose by unlawful means.

1013. In furtherance of their conspiracy, each Defendants committed overt acts and were otherwise willful participants in joint activity.

1014. The misconduct of the Defendants was objectively unreasonable and was undertaken maliciously and willfully, with reckless indifference to the rights of others and in reckless disregard of the truth and Barry Morphew's innocence, and constitutional rights.

1015. This conspiracy spanned from approximately May 2020 and continues today.

1016. Even though each Defendant had an affirmative duty to intervene to protect Barry Morphew and and prevent his constitutional rights from infringement by the others, and even though each had the opportunity to intervene and prevent the harm, each Defendant failed to take reasonable steps to intervene in other Defendants' unconstitutional conduct or to prevent the conspiracy and/or its overt acts.

1017. Defendants' misconduct was malicious, willful, and committed with reckless indifference to the rights of others.

1018. Each Defendant acted to advance a clear common goal and/or implicitly agreed to conceal material information from important decision-makers regarding Barry Morphew's prosecution, confinement and seizure of his property.

1019. A reasonable person in each of the Defendants' positions would know that Barry Morphew's constitutional rights were being violated in a conspiratorial agreement and that he was being subjected to the violations and damages outlined in this Complaint.

1020. Each of the Defendants had an affirmative duty to intervene to protect Barry Morphew and and prevent his constitutional rights from infringement by the others and to prevent or expose the conspiracy. Each Defendant had the opportunity to intervene and prevent the harm. Each Defendant failed to take reasonable steps to intervene in other Defendants' unconstitutional conduct.

1021. The acts or omissions of Defendants intentionally deprived Barry Morphew of his constitutional and statutory rights and caused him severe damages.

1022. Defendants subjected or caused Barry Morphew to be subjected to the deprivation of individual rights secured by the bill of rights of the Colorado Constitution.

1023. Defendant Sheriff Spezze is liable for the acts and omissions of the CCSD officers and employees, who were acting within the scope and course of their employment.

1024. Defendant Linda Stanley is liable for the acts and omissions of Defendant Prosecutors and (while he was employed by EJUDAO), Defendant Walker, who were acting within the scope and course of their employment.

1025. The Defendants' conduct described herein was attended by circumstances of malice, or willful and wanton conduct, which the Defendants must have realized would cause constitutional violations, or that was done heedlessly and recklessly, without regard to the consequences, or of the rights and safety of others, particularly Mr. Morphew.

1026. As a proximate result of Defendants' unlawful conduct, Barry Morphew was arrested, held in custody until he was able to bond out, and lived under bond conditions for over eleven months and suffered severe actual physical and emotional injuries and other damages and losses as described herein, entitling him to compensatory and special damages, including loss of past and future income and loss of earning capacity, loss of property, attorney's fees, and punitive damages, and causing him to continue to incur further economic or other special damages, in amounts to be established at trial.[20]

1027. Barry Morphew is further entitled to attorney's fees and costs pursuant to § 13-21-131(3), C.R.S., as well as prejudgment interest and postjudgment interest as provided by law.

## CLAIM THIRTEEN: Unlawful deprivation of property (state law) Colo. Rev. Stat. § 13-21-131 – Violation of Colo. Const. Art. II, Section 7 (Unlawful Seizure), Section 25 (due process), Section 3 (inalienable rights)

### Defendants Spezze, Stanley, Hurlbert, and the CCSD

1028. Mr. Morphew hereby incorporates all other paragraphs of this Complaint as if fully set forth herein and relies upon them in setting forth this claim.

1029. Mr. Morphew had a protected interest under the Colorado Constitution, article II, §7 in being secure in his person from being deprived of his property by law enforcement personnel, CCSD and Chaffee County.

1030. All Defendants, individually, jointly, and in conspiracy with one another and/or with other unknown CCSD officers, FBI and/or CBI Agents, and/or other personnel at the EJDAO, acting under color of law and within the scope of their employment, and acting intentionally, knowingly, unlawfully and unconstitutionally caused Barry Morphew's property to be seized[21] and him to be deprived of its use.

---

[20] Mr. Morphew seeks declaratory and injunctive relief against Defendant Chaffee County Sheriff's Office.

1031. Defendant Prosecutors, Defendant Officers, and CCSD individually, jointly, and in conspiracy with one another and/or with others unknown to Mr. Morphew, acting under color of law and within the scope of their employment, and acting intentionally, knowingly, unlawfully and unconstitutionally, have continued to deprive Barry Morphew of his property even though all charges were dismissed on April 19, 2022.

1032. Each of the Defendants had an affirmative duty to intervene to protect Barry Morphew and and prevent his constitutional rights from infringement by the others. Each Defendant had the opportunity to intervene and prevent the harm but failed to take reasonable steps to intervene in other Defendants' unconstitutional conduct.

1033. Defendants engaged in a collective plan or effort to seize Barry Morphew's property without probable cause.

---

[21] When Mr. Morphew uses the word "seized" or "seize," he includes the continued holding of his property by CCSDand by the Defendant Officers, Defendant Prosecutors, and Chaffee County after charges were dismissed on April 19, 2022.

1034. Defendants subjected or caused Barry Morphew to be subjected to the deprivation of individual rights secured by the bill of rights of the Colorado Constitution.

1035. Defendant Sheriff Spezze is liable for the acts and omissions of the CCSD officers and employees, who were acting within the scope and course of their employment.

1036. Defendant Linda Stanley is liable for the acts and omissions of Defendant Prosecutors and (while he was employed by EJUDAO), Defendant Walker, who were acting within the scope and course of their employment.

1037. As a proximate result of Defendants' unlawful and unconstitutional conduct, Barry Morphew was deprived of his personal property.[22]

1038. Barry Morphew is further entitled to attorney's fees and costs pursuant to § 13-21-131(3), C.R.S., as well as prejudgment interest and postjudgment interest as provided by law.

---

[22] Mr. Morphew seeks declaratory and injunctive relief against Defendant Chaffee County Sheriff's Office.

## NOTICE OF CLAIM

1039. The "Colorado Governmental Immunity Act", article 10 of title 24, does not apply to claims brought pursuant to § 13-21-131, C.R.S. *See id.*, subsection (2)(a).

1040. Nonetheless, Mr. Morphew filed a Notice of Claim on all Defendants on or about October 18, 2021, within 182 days of the events complained of herein. More than 90 days have elapsed since the filing of the Notice of Claim, and adjustment or payment thereof has been neglected or refused.

## VI. REQUEST FOR RELIEF

1041. Barry Morphew requests that this Court enter judgment for him and against Defendants and that said judgment grants:

A. Compensatory and punitive damages, including damages for emotional distress, humiliation, loss of enjoyment of life, loss of future business earnings, and other pain and suffering on all claims allowed by law in the amounts detailed below or such greater amount as may be set by a jury;

B. Economic losses on all claims allowed by law in the amounts detailed below or such greater amount as may be set by a jury;

C. Special damages and/or injunctive relief, including but not limited to, requiring that the Chaffee County Sheriff's Department have required training and oversight of the Sheriff and the Deputies and other personnel so as to prevent similar decisions being made in the future that results in the violations of individuals' constitutional rights and conspiracies to do so;

D. Special damages and/or injunctive relief, including but not limited to, requiring that the Chaffee County Sheriff's Department have required training and oversight of the Sheriff and the Deputies and other personnel so as to prevent similar decisions being made in the future that results in the violations of individuals' constitutional rights and conspiracies to do so;

E. An order that CCSD, Chaffee County, EJDAO, and any other Defendant holding his property release his property to him forthwith;

F. Pre- and post-judgment interest at the lawful rate; and

G. Damages to date are estimated to be Fifteen Million ($15,000,000) to include all categories listed above.

H. Attorneys' fees and the costs associated with this action, including expert witness fees, on all claims allowed by law;

I. Any further relief that this court deems just and proper, and any other appropriate relief at law and equity.

## VI. DEMAND FOR A TRIAL BY JURY

1042. Barry Morphew demands a trial by jury pursuant to Federal Rule of Civil Procedure 38(b) on all issues and every claim herein.

DATED this 2nd day of May 2023
Denver, Colorado

Jane Fisher-Byrialsen, #49133
David Fisher, # 48253
Fisher & Byrialsen, PLLC
4600 South Syracuse St., 9th Floor,
Denver, Colorado 80237
(303) 256-6345
Jane@FBlaw.org

Hollis Whitson, #32911
Eric Samler #32349
Samler and Whitson, PC
1600 Stout Street, Suite 1400
Denver, CO 80202
(303) 670-0575
Hollis@SamlerandWhitson.com

Iris Eytan
Eytan Law
2701 Lawrence St, Ste 108
Denver, CO 80205
(720) 440-8155
iris@eytanlawfirm.com

*ATTORNEYS FOR PLAINTIFF BARRY LEE MORPHEW*

| | |
|---|---|
| COMBINED COURTS, CHAFFEE COUNTY, COLORADO<br>Court Address: 142 Crestone Avenue, Salida, Colorado 81201 | FILED IN COMBINED COURTS<br>MAY - 4 2021<br>CHAFFEE COUNTY, COLORADO<br>DATE FILED: May 5, 2021<br>CASE NUMBER: 2021CR78 |
| **Plaintiff: The People of the State of Colorado**<br>**Defendant: Barry Lee Morphew** | |
| Attorney for Plaintiff:<br>Name: Linda Stanley, District Attorney, Eleventh Judicial District<br>Address: 104 Crestone Ave., Salida, CO 81201<br>Phone Number: (719)539-3563<br>Fax Number: (719)539-3565<br>Atty. Reg. # 45298 | Case Number:<br>CCSO 20000911<br>Div.: Ctrm.: |

## AFFIDAVIT FOR ARREST WARRANT

The undersigned, being duly sworn, deposes and swears that this Affidavit is made in support of an application for an ARREST WARRANT for Barry Lee Morphew, age 53 (date of birth, DOB, 10/17/1967). Your affiant is investigating the disappearance and murder of Suzanne Renee Morphew, age 49 (DOB 04/30/1971) who was reported missing on May 10, 2020 from their residence, 19057 Puma Path, unincorporated Chaffee County, Salida, Colorado.[1] Based upon the interviews, information and evidence collected to date, Suzanne's husband, Barry, violated Colorado Revised Statutes (CRS) § 18-3-102 1(a) by committing Murder in the First Degree, §18-8-610 Tampering with Physical Evidence, and § 18-8-306 Attempt to Influence a Public Servant, and took affirmative steps to conceal the murder in the months following.

Your Affiant informs this Court that he is the Chief Investigator for the 11th Judicial District Attorney's Office and has been employed with this office since January 2007 and has investigated missing person(s) and homicide matters. Your Affiant has been assigned to assist in the investigation of the case described herein below. Your Affiant has knowledge of this investigation from Chaffee County Sheriff's Office (CCSO), Agents with the Colorado Bureau of Investigation (CBI), Special Agents with Federal Bureau of Investigation (FBI) and my personal investigation. Your Affiant further states that from investigation to date, all incidents described herein occurred in the county of Chaffee and within the state of Colorado.

Suzanne took clear, articulable steps in January 2020 in attempts to separate from and divorce her husband, Barry. She told her family and close friends about her intentions, secretly recorded her notes of abuse in her phone because Barry monitored it, confronted Barry in arguments that she secretly recorded with help from a friend and, finally, sent him a text four days before she disappeared saying that she was "done, let's handle this civilly."

Barry, however, initially represented to investigators from CBI, FBI and CCSO that his marriage with Suzanne was "perfect," and she had no intention of leaving him. Barry's statements about his actions on the days before and after Suzanne's disappearance have been proven to be false and misleading by this investigation. Barry knowingly destroyed evidence that his relationship with Suzanne was deteriorating and that he was involved in her disappearance and homicide. Suzanne's bicycle and helmet were recovered close to the Morphew residence, discarded before Barry left town in the early morning hours of May 10, 2020. The investigation to date indicates that these items were not indicative of an accident, an animal attack, Suzanne being a runaway, Suzanne committing suicide, or Suzanne being the victim of a stranger abduction. All records checks available to the FBI and local law enforcement indicate as of April 30, 2021, that Suzanne has not used a credit card, nor her social security number, nor has she been contacted by law enforcement, not flown in an airplane, not crossed a national border, not established utilities or housing, nor otherwise continued in her normal pattern of life for over 355 days. Based upon legal supposition, Suzanne Morphew, based on this lack of proof of life, is deceased (People v. Scott, 176 Cal.App.2d 458).

---

[1] Barry and Suzanne have two daughters: Mallory Anne Morphew, DOB 7/4/1999, height 5' 03", weight 110 lbs. and Macy Ellen Morphew, DOB 8/28/2003, height 5' 03", weight 120 lbs.

Within a month or so of Barry moving Suzanne and their daughter from Indiana to Colorado in April 2018, Suzanne sent a Facebook message of "Howdy stranger," to her high school friend, Jeff Libler. Suzanne and Libler, who resides in Michigan, began communicating regularly through 2018 and eventually began meeting each other in 2019. Suzanne travelled to meet him in New Orleans, Indianapolis, Dallas, Michigan and Florida, where they eventually had consensual sex. By September 2019, Barry took clear steps to determine if Suzanne was having an affair by stalking her at their own residence in Salida, Colorado, as witnessed by Suzanne's closest friend, Sheila Oliver. In January 2019, Barry took Suzanne's phone from her when they were in a resort in Mexico while she was talking to Libler, but he was unable to determine Libler's identity. On May 8, 2020, Suzanne saved in the "Notes" section of her phone that Barry accused her of having a boyfriend on May 6, 2020. On May 9, 2020, Suzanne's last proof-of-life occurred in the 2:00 PM hour when she was messaging Libler with a "selfie" while Barry returned to the residence. Suzanne did not respond to Libler's return messages at 2:44 PM and 2:46 PM, the same time Barry admitted to running around their property with a gun and placing his phone in Airplane Mode at 2:47 PM.

The computer activity (telematics) from Barry's Ford F350, the activity of his cell phone and statements he made to law enforcement in multiple interviews confirm that from 2:47 PM on May 9, 2020 until 5:37 AM on May 10, 2020, he took steps to dispose of evidence of Suzanne's disappearance and death, create a false alibi for himself and stage a crime scene. In recent months, following the presentation of evidence by FBI Agents to Barry, he has changed critical details about his activities in the 2:00 PM hour on May 9th in attempts to match the evidence. Since January 2021, Barry has admitted to: chasing a chipmunk with a gun around the house while Suzanne was outside sunbathing, shooting a deer with a tranquilizer dart to explain a dart or needle cap in the dryer, disposing of the tranquilizer solution during his trip to Broomfield, following a bull elk down Highway 50 in the 4:00 AM hour on May 10th to explain why his truck would be headed west (where the helmet was discarded), and finally stating to the FBI on April 22, 2021 that he looks guilty from the evidence and God allowed these things to happen.

Barry's involvement in Suzanne's disappearance and death can be organized into the initial scene and interviews (Section 1); Suzanne's affair and her attempts to leave him (Section 2); Barry's early statements to CBI from May through June 2020 (Section 3); the evidence recovered by law enforcement (Section 4); witness statements (Section 5); and Barry's statements to the FBI in 2021, wherein he tangentially describes what happened to Suzanne when he is shown evidence in the case (Section 6).

The following case synopsis was prepared for this affidavit by your affiant, with the assistance of FBI Special Agent (SA) Jonathan Grusing. This affidavit was edited and reviewed by SA Kenneth Harris and CBI Agents Joseph Cahill and Derek Graham. The affidavit includes footnotes that denote critical deceptive statements and inconsistencies by Barry that are addressed later in the affidavit.

## SECTION 1: The Initial Scene

On May 10, 2020 at approximately 5:58 PM, CCSO Deputy Damon Brown was notified by dispatch to contact Scott Ritter (later correctly identified as Martin Ritter) by phone regarding a "possible missing person who also has cancer." Dispatch further informed that the missing person was named Suzanne Morphew and that her husband, Barry, was driving back from Denver and "did not have cell service," when in fact, he was at his hotel in Broomfield with cell service.[2]

Martin Ritter reported to Deputy Brown that he was contacted earlier by telephone by Suzanne's daughter, Mallory Morphew, age twenty. Mallory was attending college at Western State University in Gunnison, Colorado and did not reside at the Morphew residence. Mallory explained to Martin that she was concerned because she could not reach Suzanne via telephone or text. Mallory asked Martin to go to the residence and check on Suzanne. Martin's wife, Jeanne Ritter, proceeded to the residence but could not locate Suzanne, so Martin contacted Barry via telephone.

Martin further stated that Barry told him that he also could not reach Suzanne, either. Martin told Barry that he did not locate Suzanne at the residence nor could he locate her after searching the immediate area. Barry instructed Martin to call 911 and advised Martin that he was on his way home from Denver.

Martin estimated to Deputy Brown that Suzanne went missing between 8:00 AM and 9:00 AM that same morning.

**(Deputy Brown Reporting)**

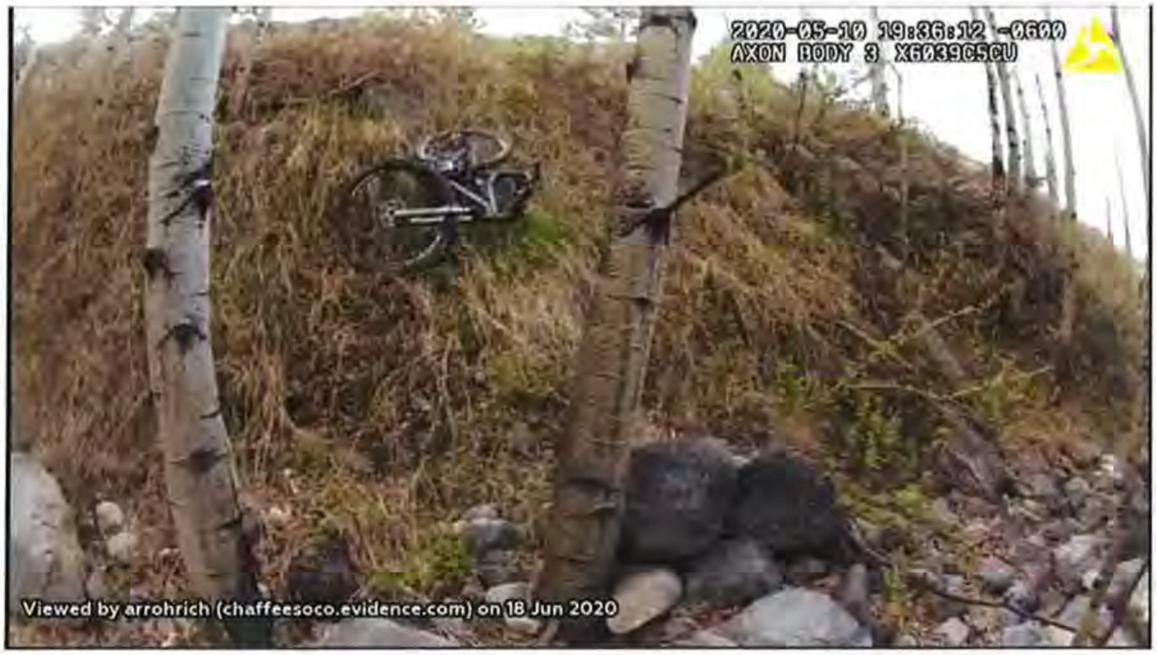
Deputy Brown attempted to contact Barry at 6:05 PM without success, then again at 7:10 PM, when he spoke with Barry. Barry stated that the last time he saw his wife was at their residence at 5:00 AM that morning, May 10, 2020, when he got up to leave for Denver for a landscaping job. Suzanne was still sleeping and Barry did not speak with her. Barry advised Deputy Brown that Suzanne had recently gained an interest in mountain biking and began mountain biking on a regular, daily basis. Barry advised that when Suzanne would bike, she would wear a turquoise in color bicycle helmet and a windbreaker jacket (no other description given for the windbreaker jacket). He described that Suzanne also had an iPhone which she would take with her when biking. Barry added that Suzanne was going through cancer treatments and he provided Deputy Brown with her phone number, (317) 339-5280, when Deputy Brown requested it.

Deputy Brown and CCSO Sergeant Lamine Mullenax drove to the Morphew residence and turned onto County Road (CR) 225 from US Highway 50 at about 7:31 PM. They drove slowly, looking along the steep incline along the shoulder of CR 225 for the bicycle. As Deputy Brown turned the corner, he saw a blue mountain bike down near the ravine close to the bottom of the hill with the front tire pointed downwards, toward the creek.

Sergeant Mullenax accompanied Deputy Brown to investigate the blue Santa Cruz mountain bike. They saw no indications of a crash, as Deputy Brown noted, "The vegetation around the bike was not flattened in the area where a human body would have landed." There was no blood around the bike, nor was there any apparent damage to the bike. Due to the steepness of the incline, the bike should have been damaged if an accident had occurred. When Deputy Brown moved the bike up to the path, he noticed that the front brake pad was seized and the handlebars were turned completely to the left, causing the brake cables to wrap around the bike frame. Deputy Brown and Sergeant Mullenax examined the dirt shoulder of CR 225 immediately above the area where the bike was recovered and "did not observe any braking marks (skid marks) from a bicycle."

---

[2] In a separate interview, Martin Ritter told the FBI that Barry said he was "at a worksite with workers present" when he received the final call from Martin. Barry also told CBI Agents multiple times that he was at the Via Varra worksite in Broomfield, CO, when he received that call and had to drive to his hotel to drop his tools off for workers. The Broomfield hotel video, however, disproved those assertions by Barry. (See Section 4)


2020-05-10 19:36:12 -0600
AXON BODY 3 X6039C5CU
Viewed by arrohrich (chaffeesoco.evidence.com) on 18 Jun 2020

Deputy Brown examined the front rim of the bike tire and he observed no damage to the rim or spokes, which he expected to see if the brake had locked and the weight from a rider who would have been going head first over the edge.

Deputy Brown wrote, "After all these observations I started to question if something criminal had occurred as it looked like the bike was purposely thrown in this location."

Meanwhile, Macy's boyfriend, Miles Harvey, age seventeen (17), his father, Michael Harvey, and his sister, Chloe Harvey, arrived at the residence and assisted with searching the immediate area, finding no signs of forced entry at the entry door or any other points of entry into the residence. Deputy Brown walked through the Morphew residence with Chloe present. Deputy Brown observed that the residence was well-kept and orderly with the exception of one guest bedroom, later identified as Mallory's bedroom. In Mallory's bedroom, the bed was stripped of the bedding.

Deputy Brown observed in the master bedroom, what appeared to be one .22 caliber round of ammunition (unfired) on the floor next to the bed. He then looked under the bed to inquire where the said ammunition may have come from and observed what appeared to be a rifle storage case. In the main floor/foyer area of a storage closet, Deputy Brown observed what appeared to be a reddish/brown substance that was smeared midway on the side of the closet wall.[3]

In the kitchen area, Deputy Brown observed a lap top computer and documents scattered near the laptop computer.

In the three-car garage area, Deputy Brown discovered two white SUV vehicles, later identified as Suzanne's personal vehicle and Macy's personal vehicle. At the time of Suzanne's disappearance, Macy and Mallory were on a road trip traveling out of Colorado in Mallory's vehicle.[4] Therefore, Macy's vehicle was parked in the garage.

He also observed that there were home surveillance cameras mounted on the exterior of the residence. Deputy Brown described that the placement of the mounted exterior cameras, are ideal for viewing any persons or activity coming onto or leaving the Morphew property.

---

[3] This reddish-brown stain was processed by CBI Laboratory and determined not to be blood.

[4] Mallory resides in Gunnison, Colorado.

At 9:37 PM, CCSO Commander Avila brought Barry into the house and advised Deputy Brown that they were looking for a piece of clothing from the residence for the search dogs to locate Suzanne. Barry walked to the master bedroom and pointed to the clothing on the floor in the closet. Deputy Brown observed mountain bike gloves and padded shorts in the pile; Commander Avila took a pair of the shorts.

Deputy Brown was walking in the driveway when Deputy Defurio told him that there were barefoot marks inside of the bucket on the Bobcat. Deputy Brown went with him to examine and found that the cutting blade on the bucket of the Bobcat appeared to be newly replaced, along with the nuts and bolts.

**(Sergeant Mullenax Reporting)**

Sergeant Mullenax documented that he was present when Deputy Brown was speaking to Barry at approximately 7:10 PM over the phone. Barry said that Suzanne "rides her bike regularly and usually leaves between 8:00 AM and 9:00 AM." [5]

Upon inspecting the bike with Deputy Brown, Sergeant Mullenax activated his body camera as did Deputy Brown. Sergeant Mullenax noted that "the bike appeared out of place."

Sergeant Mullenax and Deputy Brown walked down to the ravine as they called out for Suzanne. They walked a few hundred yards along the ravine without finding anything of interest. Sergeant Mullenax asked Deputy Brown to go to the Morphew residence while he stayed with the bike, which Deputy Brown moved up to the road. Deputy Brown contacted dispatch, as they had no cell service, and asked for the local hospital to be checked for Suzanne. Dispatch informed Deputy Brown that Suzanne had not been to the hospital.

Sergeant Mullenax asked dispatch to ping the number given for Suzanne's cell phone. Dispatch informed Sergeant Mullenax that the cell phone appeared to be off and last known activity was at 4:23 AM on the present date, with a general location about 11.5 miles west of a cell tower in Poncha Springs, CO.

While Sergeant Mullenax was by the bike, Miles Harvey approached and identified himself as the boyfriend of Suzanne's daughter, Macy. Miles confirmed that the bike belonged to Suzanne. As Sergeant Mullenax examined the bike, he found no scratches or damage to it.

At about 8:42 PM, Barry arrived on scene in his truck by himself, walked up and touched the bicycle and identified the bike as Suzanne's.

**(Sergeant Hysjulien Reporting)**

CCSO Sergeant Claudette Hysjulien contacted Miles Harvey on-scene that same date and he reported that Macy has told him that Suzanne and Barry argue frequently. Miles added that he was the one who introduced Suzanne to mountain biking about a month ago. He described her mountain biking skills as intermediate level.

When Miles was asked if he noticed anything out of order in the residence, he described that the bedding from Mallory's bed was stripped off the bed. Miles thought that was strange because Mallory does not live at home. Miles also thought that it was unusual for Suzanne's bike to not have any damage if she had possibly crashed on her mountain bike.

Sergeant Hysjulien next contacted Mallory Morphew, who stated that she had last talked to Suzanne on the night of May 9, 2020.[6] She had last seen Suzanne at the end of April 2020. Mallory advised that she had sent a text message to Suzanne wishing her a happy Mother's Day on May 10, 2020, but Suzanne had not replied. She also tried calling Suzanne, but the call went directly to voicemail. At that time, she received a call from Barry, asking if she contacted Suzanne. Mallory advised him that she attempted to but was not able to reach her. Barry asked Mallory to let him know if she was later able to reach Suzanne. Mallory stated that Suzanne mountain-bikes regularly during the afternoon hours, often using a wide trail across the highway. Suzanne normally took her cell phone, sunglasses and blue backpack/ hydration bladder on the bike rides.

---

[5] Refer to the portion of Suzanne's Instagram posts and her pattern of life statements from Mallory Morphew, Melinda Baumunk, her sister, and interviews with Barry. Suzanne routinely rode in the afternoons.

[6] There are no electronic records of Suzanne communicating by any means with anyone after 14:11 on May 9, 2020 when she sends her last message by LinkedIn to Jeff Libler. Phone records show that the last communication from

When Mallory was asked if there were any concerns with her parent's relationship, she denied any concerns or issues. When asked if there was any reason why Suzanne may leave the area, she denied that Suzanne would ever leave for an extended amount of time. She also denied any recent incidents or concerns between Suzanne and anyone else.

Sergeant Hysjulien spoke with Macy Morphew and Macy reported that she last had seen Suzanne on Tuesday, when she and Mallory left on the road trip. She reported last exchanging text messages with Suzanne on May 9, 2020. Macy stated that Suzanne works out at the gym regularly and that recently she has taken up mountain biking daily. Macy added that Barry has mountain biked with Suzanne a couple of times.

Macy denied any marital issues between her parents and described their marriage as very loving.

### (May 11th Interviews)

Sergeant Hysjulien spoke with Mallory on May 11, 2020 and Mallory confirmed that Suzanne wrote religious devotionals in a journal. When asked to describe her (Mallory's) bedding at the Morphew house, Mallory said that her bed is always made, her sheets and pillowcases are light blue in color and that her comforter is brown and reddish.

Sergeant Hysjulien spoke with Macy on May 11, 2020 and Macy admitted that her parents argued a lot and that she feared they would separate or divorce. She said that they were "not doing well" and that it was for the best that they would separate. Macy reported that they (Barry and Suzanne) were both in an "unsafe place" emotionally.

Macy stated, "Him (Miles) and my dad are different people and they (Suzanne and Barry) argue and, I mean, they get in fights and...I don't know they both have - they both have just not felt safe at some point." Macy added that Suzanne and Barry "weren't getting along" and had discussed divorce.[7]

When Macy was discussing if she had ever seen any text messages on her parent's phones, she advised that she does not ever look at the messages on their phones.[8]

When Macy was asked if there was a possibility that her Mom may have left home because she did not feel safe, Macy said her Mom would never leave her. Macy later said if Suzanne would have left, she would have contacted her and her sister to let them know she was ok.

Macy explained that she and her sister, Mallory, were heading back home on May 10, 2020 with their friend "Holly," but there were no plans for Holly or Mallory to stay at the Morphew house after the trip.

---

Suzanne to Mallory was an iMessage text that Suzanne sent at 13:58 that said "Stunning" in response to some photos Mallory had sent to Suzanne.

[7] In multiple interviews with the FBI in 2021, including one on 04/22/2021, Barry denied that he and Suzanne discussed divorce.

[8] This statement by Macy contradicts Barry's repeated assertions to CBI that he deleted arguments between him and Suzanne on his phone because his daughters always looked in his phone.

Macy said Suzanne always carried her cell phone with her and had a charging cable on her nightstand next to her bed.[9]

Sergeant Hysjulien spoke with Jeanne Ritter, who confirmed that Mallory contacted her and Martin Ritter via telephone on May 10, 2020, at approximately 4:00 PM to 4:30 PM, because she could not reach Suzanne. Mallory asked them to go to the house and check on Suzanne and Jeanne went to the house. She did not locate Suzanne at the house, so she called Barry and told him what happened. Barry asked Jeanne to look for Suzanne's bicycle and call 911 if she didn't locate Suzanne. Jeanne returned to the house a second time, but once again she did not locate the bicycle or Suzanne.

After Jeanne returned home the second time, Martin called 911 to report that Suzanne was missing. Martin sent Jeanne back to the Morphew house once more to leave a few notes posted for Suzanne in case Suzanne returned.

**(Barry Interview – May 11th)**

In the early morning hours of May 11, 2020, CCSO Detective Burgess and your affiant interviewed Barry Morphew. Barry explained that he left his residence at approximately 5:00 AM on May 10, 2020 to travel to Broomfield, Colorado for a construction job.[10] He did not speak to his wife, Suzanne, that morning because she was still asleep when he left. Barry stated that his daughters were to return to their home on May 10th from a camping trip. Barry said that he texted his wife to wish her happy Mother's Day and did not get a response, possibly due to poor cell service at their residence. Barry said that he tried to text her again later that morning, again with no response. Barry reached his daughters via text messages and they also stated they could not reach their mother.

Barry specifically provided his route of travel to Broomfield, and in all subsequent interviews with CBI, Barry never stated that he turned west on Highway 50.[11]

Barry explained that his wife's plan for May 10th was to clean the house and get the spare bedrooms ready for their two daughters coming back, with possibly a friend to visit. Barry said that his wife rides her mountain bike every day. He added that Suzanne was diagnosed with cancer twice in her life and she beat it.

Barry said that he owned firearms and all the firearms and ammunition are stored in a locked gun safe in the garage. It should be noted that on May 11, 2020, while law enforcement searched the Morphew residence, two firearms were located at the residence that were not inside a gun safe. A high-powered rifle was located in a closet on the ground floor in a closet. The rifle appeared to be spray-painted in a camouflage pattern and your affiant could not locate a serial number. A Benelli 12-gauge shotgun was found lying against the wall in the garage. Also, a loaded .22 long rifle cartridge was located lying on the floor in the master bedroom near the right side of the bed.[12]

After your affiant ended the interview with Barry, he was told that law enforcement was going to seize his truck to process it.

---

[9] It should be noted that when the residence was searched, law enforcement did not locate a charging cable on either side of the bed.

[10] Barry's phone entered Airplane Mode at 4:32 AM and he altered his numerous prior accounts to law enforcement to match phone and truck evidence when speaking to FBI Agents in April 2021. Barry said he turned left on Highway 50 when leaving his house, the opposite direction of heading to Broomfield, because he saw a bull elk crossing the road. Barry eventually pointed to an area on a Google map that indicated he turned his truck around at an exit in Garfield, Colorado, about five miles in the opposite direction of his trip.

[11] Suzanne's helmet was discovered off the south side of Highway 50, west of the County Road 225 entrance that leads to the Morphew's Puma Path residence.

[12] This is the same unfired .22 round previously reference above.

**(May 11, 2020 Search of Puma Path Residence)**

On May 11, 2020, pursuant to an authorized search warrant obtained by your affiant, while assisting with the search of the exterior of the residence your affiant located what appeared to be suspect blood on the apron of the garage near the east side of the three-car garage.

Additionally, it was noted by your affiant and other investigators that there was a Bobcat Skid Steer parked in a parking area/driveway, west of the Morphew residence. Next to the Skid Steer (south) was a flat-bed trailer. The trailer was in its tilt position. The trailer bed had some loose gravel and dirt on it. The trailer did not have a jack on it and the tongue of the trailer was lying on the ground. The Skid Steer was parked to the left side near the trailer tongue. The items were positioned such that the Skid Steer bucket appeared to have been used to un-hitch the trailer from a vehicle, most likely Barry's truck, and set the trailer on the ground.

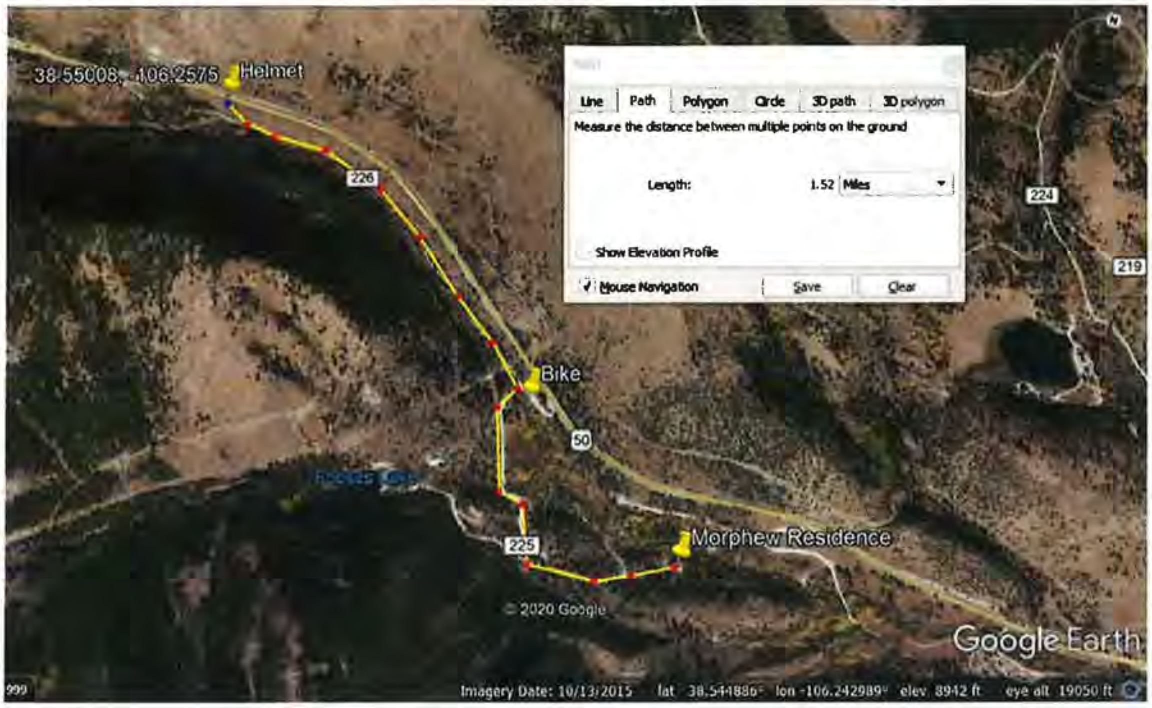
Your affiant examined the Skid Steer and noted that the cutting edge of the Skid Steer bucket had been recently replaced, so there was no wear on it. It was also noted, several larger bolts and nuts were lying in the Skid Steer bucket and on the front end of the trailer bed. [13]

**(Suzanne's Helmet)**

On May 13, 2020, search teams located what they believed to be the bicycle helmet Suzanne would have been wearing. Investigators located a photo of Suzanne prior to this date with Suzanne wearing the helmet, documenting its teal color. This item was located at the following GPS coordinates (38.55008, -106.2575) approximately 0.84 miles northwest of the site the bicycle was located, approximately ten meters south of Highway 50 and about 1.52 miles from the Morphew residence. Inside the helmet, law enforcement located a piece of paper in the top portion of the helmet with Suzanne's name, phone number and address as well as Barry, Mallory and Macy's phone numbers. This item was collected by law enforcement and placed into evidence.

---

[13] In a news story that aired on Fox 21 on 08/21/2020, Barry stated that he had "an inconsistency with one time line," adding that, "I was only because when…I just didn't know the time that I did something a mechanical thing to my bobcat, I was confused and I just found out my wife was missing."


38.55008, -106.2575
Helmet
226
224
219
Bike
50
225
Morphew Residence
© 2020 Google
Google Earth
999
Imagery Date: 10/13/2015 lat 38.544886° lon -106.242989° elev 8942 ft eye alt 19050 ft
Line
Path
Polygon
Circle
3D path
3D polygon
Show Elevation Profile
Mouse Navigation
Save
Clear

Measure the distance between multiple points on the ground

Length: 1.52 Miles

[14]

On May 13, 2020, search teams were still searching areas in the proximity of Suzanne's bicycle and helmet as well as law enforcement driving roads in these areas attempting to locate Suzanne. During this effort, law enforcement located what they believed to be fresh tire impressions and a piece of cloth with a reddish/brown unknown substance on it. Also located in the area of the piece of cloth, tire impressions were located. These tire impressions were casted on May 14, 2020 by deputies with the CCSO. As of the present date, these items appear to be unrelated to Suzanne's disappearance.

**(CBI Crime Scene Report)**

FBI Special Agent (SA) Grusing provided the following excerpts from the CBI Crime Scene Report, Lab Case #P20-1889, written by CBI Crime Scene Analyst Tanya Atkinson:

Regarding the interior of Barry's F-350 on May 12, 2020: "The interior of the truck was cluttered with several personal items. The interior dash area was dusty and dirty."[15]

Regarding Suzanne's white Range Rover on May 19, 2020: "There were personal items, to include Suzanne's driver's license and credit cards, throughout the vehicle. Items from the interior were pulled out by sections or areas and photographically documented on butcher paper. Some of the items collected included a women's jacket and knit cap in the rear, pairs of sunglasses and a key in the glove compartment, a Camelbak[16] and sunglasses in the front passenger seat, spa chemicals on the front passenger floorboard, and a Scot Bicycle Service receipt in the front driver door."

---

[14] Map provided by SA Grusing, FBI, using GPS coordinates from CCSO incident reports – note the position of the helmet, west on Highway 50.

[15] The interior condition of Barry's truck conflicts with his subsequent statements to CBI and FBI that the purposes of his five trash runs in Broomfield were to "clean out his truck."

[16] Suzanne's Instagram pictures (above) of her bike riding have her blue Camelbak water pack visible, making it unlikely she would take a bike ride without it.

MOUNT SHAVAN

LITTLE RAINBOW TRAIL

METHODIST MOUNTAIN
1st single track!
Broke my first chain

Regarding the tranquilizer dart cap on May 19, 2020: "A plastic needle cover was located in the dryer drum. This was collected by the CCSO along with additional items and swabs from different areas." The needle cover was recovered with sheets from Mallory's bed inside the dryer.

## SECTION 2: Suzanne's Attempts to Leave Barry and Her Affair

Suzanne told numerous close friends, her daughters and Barry that she wanted out of her marriage, yet Barry refused to listen to her. She suspected Barry of having affairs for years and kept her affair very secretive to protect her daughters and the family of Jeff Libler. A small portion of interviews and evidence of her attempts to leave Barry and of her affair follows:

### (Sheila Oliver Interview)

On May 11, 2020, CCSO Detective Burgess conducted a phone interview with Sheila Oliver, Suzanne's best friend, who lives in Indiana. Sheila had constant communication with Suzanne via text messages and Snapchat messages until Saturday, May 9, 2020. Sheila said that Suzanne promptly checks her Snapchat messages and Sheila was worried that Suzanne did not read three Snapchat messages from her on May 9, 2020 at 6:40 PM and 6:48 PM (MDT). Suzanne had been very excited about the wedding of Sheila's daughter on May 10th - Suzanne was helping Sheila prepare and eager to watch it online.

Sheila provided texts with Suzanne, with the following:

March 25, 2020

**Suzanne**: Tsking (sic) care of myself physically in a stressful marriage. Macy and I had a very tough talk yesterday...She's weary of the tension here. She knows how he is toward me and almost begged me to divorce him.

**Sheila:** What does he want? Have you talked anymore about splitting?
**Suzanne:** He threatens but I've never come out and said I wanted it today. He thinks I'm holding on til after Mace graduates at lesst (sic). He prob thinks I'm not strong enough to do it. Given finances.

**Suzanne:** She (Macy) even mentioned a restraining order. I'm sick I had a conversations like that with my 16yr old.

**Sheila:** He's nuts
**Suzanne:** It's Jekyl and Hyde again…Pretty much told him I can't be healthy and stay in this.
**Sheila:** What did he say?
**Suzanne:** He threatens to come home and pack. Ugh.
**Suzanne:** He won't speak of divorce.[17] Begging for another chance. I'm so torn. But I'm my heart I know who he is.

During the interview, Sheila also told Detective Burgess that she was so concerned with Barry's behavior that she purchased a "spy pen" for Suzanne, which she gave to her in January 2020 when she met up with Suzanne in Florida. This device was designed to record conversations covertly.

The downloaded audio files of the "spy pen" conversations will be summarized in Section 4.

Sheila told FBI Agents in 2021 that Barry called her in the summer of 2019 when Suzanne was in Michigan, asking why Suzanne was not returning his calls, he stalked Suzanne and Sheila at the Puma Path house in September 2019 to see what Suzanne was up to – sneaking through the woods, and of earlier accounts in Indiana when Barry suspected Suzanne may have had a boyfriend before they got married.

**(Melinda Baumunk Interview)**

Melinda Baumunk was interviewed by FBI Special Agent (SA) Richard Tipton on May 19, 2020 at the FBI office in Knoxville, Tennessee. Baumunk is the sister of Suzanne and last talked to her on Friday, May 8th, via text message. Baumunk sent a text to Suzanne on Mother's Day, May 10, 2020, and received no response. For the previous six months, Suzanne had texted Melinda and told her that things were "getting tense" between her and her husband Barry.

Baumunk advised that Suzanne told her that she had come to realize what a narcissist her husband Barry was and that she had come to terms with his narcissistic ways. Baumunk described Barry as one who lives a double life, a liar, an adulterer, a bully, one that has to have control, cunning, "fools people a lot," loves money, and treats his wife and daughters as trophies.

Baumunk advised that her sister Suzanne was a co-dependent person and was very dependent on her husband Barry. They lived a phony life and would often put on a front as if they were happy together.

Baumunk thought that it was unusual for Macy and Mallory to take a road trip on Mother's Day weekend especially with the Corona virus pandemic. Baumunk advised that she received a phone call from her father, who lives in Michigan, on Monday, May 11th to tell Baumunk that Suzanne was missing.

On November 20, 2020, SA Grusing spoke with Baumunk about the message Suzanne sent to her on Friday, May 8, 2020, at 9:28 AM:

---

[17] On 04/22/2021, FBI Agents informed Barry of this message on 03/25/2020 that Suzanne discussed divorce with him. Barry stated he did not recall that discussion.

"It's hard dealing with the harsh abrasiveness and having to show respect. He's also been abusive, emotionally and physically. There's so much…I went thru a period of acceptance and I feel more angry now. Anger at what I've allowed."

Baumunk told SA Grusing that she did not have context for why Suzanne texted on May 8th that Barry was "physically and emotionally" abusive. She had not discussed those things with Suzanne and was surprised to see her text that.

When Baumunk found out on May 11th that Suzanne was missing, she said, "Damn it, damn it, damn it," to herself because she was certain that Barry killed her.

Baumunk described years of Suzanne being a submissive housewife to Barry in Indiana, allowing him to control their finances and Suzanne's longtime suspicions about Barry having affairs. Baumunk said Suzanne loved Barry and wanted to be a good wife and mother to her two girls. Baumunk thought the primary reason for the move to Colorado was Barry's long-term desire to move there for hunting. She thought Suzanne "threw caution to the wind" and moved in an attempt to save their marriage and start over.

Baumunk provided documentations that Suzanne inherited approximately $208,000 from their mother, Adrienne, passing away in 2013 and another approximate $217,000 when her grandmother-in-law, Helen Burnett, passed away in 2016.[18]

**("Notes" from Suzanne's Phone)**

On July 7, 2020, FBI Computer Scientist (CS) Brian Turner recovered a file from the return of search warrant on Apple for the suzmorph@gmail.com account. This file appeared to contain "notes" that Suzanne wrote to herself in her Apple account on or before Friday, May 8, 2020. The attachment shows that the Notes were backed up to the cloud on May 8, 2020, at around 7:01 AM to 7:03 AM.

CS Turner retrieved the notes that contained sixty (60) lines of apparent issues Suzanne had with Barry. Excerpts from these lines includes:

"Monkey app[19]
Phys abuse
Mental abuse while drinking NYE- name calling/said I only need for $/
Women on FB- good for business
Lies about deer- pants unzipped
Trip to CO- pen on hand

Wear bear claw/ FaceTime in Az angry
Stalking Sheila and me in house without telling
Lied and said U needed phone to call Casey
Chased me around resort and threatened
Took phone

Not safe alone with you. Can't be trusted
Oppressive
Slam on brakes when angry

---

[18] Suzanne's grievance list included multiple references to Barry controlling the finances (see Recording Pen section).

[19] Monkey app is an application on a phone that can function as a dating website.

Threaten to jump out of car
Gun

Shame and guilt daily for not meeting expectations
Nothing to do with infidelity- everything to do with your character and who U are at core

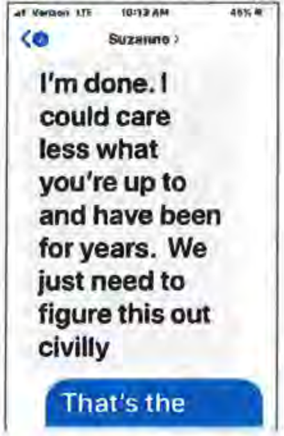
Your lack of control over me= insecurities= a sick relationship
Situation with Marcy when I'm IN/ accuse me of going behind your back
Got up and left Macy, Miles and me at the table. Left plate, no comment. Just to watch tv
Act like I'm intruding in the garage
Verbal abuse
Writing checks for cash out of business acct
Wiring money from inv acct without asking or discussing
Monex- in your name only

Pull Mal in- hurting her
Left 2x on treatment weeks.
Bedroom profession about marrying, having babies and sleeping together
Don't care about preg possibilities
Hot tub talking to self?

Accused me of bf and hydro 5/6[20]
Wrote in Alanon book
Knew I was looking at phone in bonus?"

**(May 6, 2020 Message to Barry)**

Pursuant to an authorized search warrant, Barry's Verizon phone was searched by FBI examiner Jim Stevens, who found an image that Barry likely swiped the message off his screen and the swiped image was inadvertently saved. This message was not recovered separately in Suzanne's phone or Barry's phone. The image appears to be a message from Suzanne to Barry. The date of this message was May 6, 2020[21] at 10:13 AM (see image below):



I'm done. I could care less what you're up to and have been for years. We just need to figure this out civilly

That's the

**(Suzanne's Affair - Jeff Libler)**

---

[20] The "bf" stands for boyfriend, the "hydro" for the cancer medication Suzanne was taking and 5/6 for May 6, 2020, as confirmed by Barry to FBI Agents in interviews in March and April 2021.

[21] Suzanne dropped Macy off in Gunnison at Mallory's apartment on the afternoon of May 5th, leaving her alone with Barry from that evening through Mother's Day. Suzanne sent the "we just need to figure this out civilly" text on the morning of May 6th.

Upon the recovery of Suzanne's spy pen, SA Grusing and SA Kenneth Harris began prioritizing anyone named "Jeff" in Suzanne's social media, phone records or other accounts. On the pen, Suzanne spoke to an unknown male named "Jeff" while she was in Florida as if he was her lover, but no last name or phone number was provided. After months of investigation, and after working through a list of about twenty or more "Jeffs" possibly associated with Suzanne, Jeff Libler, a former high school friend of Suzanne, was identified and interviewed. Libler provided the following information:

On November 4, 2020, SA Grusing and SA Harris spoke with Libler on the phone and recognized his voice as being the voice on Suzanne's pen recording. After discussing his relationship with Suzanne and Libler talking about their secret meetings, he asked to continue the interview in person. He said after he learned Suzanne went missing, he figured "there's no way she's alive." He said he is not proud about not coming forward, giving reasons to Agents that he has six kids and a wife and will lose his job. Libler said when this happened, he thought Suzanne was abducted, so he kept quiet. He stated time went by and he did not want her girls to find out. He does not think Barry knew about him and Suzanne or what "set him off, other than the fact that the guy could be easily set off by anything, you know. I'm sure you guys know that." Libler said he did not feel like he had anything to add and did not want to hurt anybody.

On November 13, 2020, SA Grusing and SA Harris interviewed Libler in Ann Arbor, Michigan. Libler said after Suzanne's first message of "Howdy stranger" to him in 2018, they began talking on the phone. Libler said he was nervous to talk to Agents and what he did was disgraceful. In the summer after Libler's first year of college in Indiana, he attended a party with some friends at Suzanne's house. Barry and Suzanne were a couple, but Barry was not at the party. Libler said he and Suzanne "kinda hooked up, not really," at the party. Libler played golf almost daily at the time and Barry worked on the golf course.

Barry found out about Libler and Suzanne hooking up at the party. Upon seeing Libler on the golf course, Barry "jumped off the tractor and he was ready to beat me down." Libler told Barry, "You're gonna lose your job. You're gonna lose everything." Libler talked him out of it and that was the last interaction Libler had with Barry.

Libler said he did not talk to Suzanne until 2018 following that night in Indiana. He explained, "I'd tell her I carried a torch for her all that time." Libler and Suzanne used Facetime to communicate in 2018, though Libler's daughter saw one of their communications in late 2018, and Libler told Suzanne they had to stop. They did not speak until around Christmas 2018 because Libler deleted Facebook, Instagram and all messaging between him and Suzanne.

Around Christmas 2018, Suzanne found Libler's LinkedIn account and sent a message with words to the effect of, "I'm worried sick about you. Are you ok?" Libler responded to the message and they began talking again, first in a platonic way, then their relationship progressed again. Libler said they communicated through Facetime but did not physically see each other in 2018.

Suzanne and Libler communicated regularly from late 2018 through May 9, 2020, and she provided him with numerous reasons why she wanted to leave Barry. Between February 2019 and February 2020, Libler and Suzanne met each other in New Orleans, Florida, Indianapolis, Michigan, Dallas and again in Florida. During the last five trips, they stayed in hotels, talked and shared meals and had consensual sex. Libler has not traveled to Colorado to see Suzanne, partly because Suzanne said Barry has surveillance cameras are all around the house.[22]

Libler stated, "Here's what she told me about her relationship with Barry: not good, lot of fights, very argumentative. Um, felt like it was horrible for her health, mentally." Libler asked Suzanne if she felt afraid Barry would hurt her and she answered, "He would never cross that line. He's learned." Libler took that to mean something happened physically one time to Suzanne, whether Barry shoved her or hit her.

---

[22] Libler also told agents on November 13, 2020 that he was last in Colorado when he visited Denver in 2016.

Agents asked Libler when Suzanne first said she loved him, and he replied she told him that in 2018. They discussed that they were soul mates and "meant for each other." They eventually exchanged words of love to each other. Libler explained they were soul mates because of their approaches to the world and to people. Libler said that Suzanne treated people well, not simply for social stair climbing or status benefits. Libler was striving to be that type of person. He stated he was not a good person, though; he was "horrible" for having this relationship with Suzanne.

When Agents asked Libler how Suzanne took steps to be careful about Barry knowing her travel activities, he said when Barry called, Libler left the room. This happened once in Suzanne's hotel room in New Orleans.

Agents asked Libler what other steps they took to conceal their relationship from Barry. He responded, "We talked all the time about 'protect.' For the kids, for family, all that stuff." Suzanne knew when Libler was going to be working in his car, and he never initiated conversation with a phone call or a text. They communicated through his LinkedIn account in 2019 to determine when they could Facetime.

Agents asked Libler if Suzanne ever spoke about leaving Barry. He said Suzanne's plan was to get Macy out of the house and to college before Suzanne "would probably go on her own." Libler and Suzanne talked about one day being together. She told Libler this was not about him, "it's about her getting away." He said Suzanne was not happy, mentally, she could not take it and it was wearing her out.

Libler had a corporate LinkedIn account and he created a second account to use to communicate with Suzanne. They stopped talking on the phone in December 2019. Libler deleted his second LinkedIn account of "JeffreySL" after Suzanne disappeared when he thought she was abducted. Libler said, "I didn't want her legacy to be she had an affair with this guy."

Libler and Suzanne stopped talking over the phone in December 2019 because she told him, "We can't use the phone anymore." She said, "He (Barry) watches everything I do and I'm afraid he's gonna, gonna find out." Suzanne mentioned an incident when she was on the beach in Mexico listening to music on her phone and Barry was suspicious of her. Libler said, "She started handing her phone over to him and told him, 'Do whatever you want. Go through it.'"

Libler and Suzanne used WhatsApp because they could talk and leave messages but there was no phone record of it. Libler did not think there would be call records of them talking past December 2019.

In October 2019, Libler had a sales meeting in Dallas and Suzanne was traveling to Phoenix. She left a day early and went through Dallas, staying at the same hotel Libler stayed, the Galleria in northern Dallas with the ice rink inside. They spent two nights at the hotel together. Suzanne was going to the Phoenix conference to become a certified fitness instructor with the mind-set of, "What am I going to do if I leave him?" She talked to Libler about Barry's moods and anger, saying, "As long as he gets what he wants, everything's fine." Libler said he and Suzanne had a mutual understanding not to dive too much into the problems they had with their spouses.

Libler knew Suzanne had discussions with Macy in March or April 2020 about separating from Barry and getting a divorce. Suzanne told Barry, "I just want peace," explaining she wanted it to be peaceful for the girls.

Libler thought that in February 2020, Suzanne was wanting to break out on her own but still wanted to wait until Macy graduated. Libler said Suzanne felt some shame that she had so much materially, and she spoke with Libler about life transformation. Barry held the huge houses and Range Rovers over Suzanne's head. Barry told her things like, "I provide these things for you. You have the greatest life. You have everything. A million-dollar home, you have Range Rovers." Libler said they never made concrete plans, but she told him several times when she does leave Barry, she would go without contacting Libler for a while. Suzanne said she was not doing this for Libler but for herself.

Suzanne's talk of leaving Barry was like a "wave, with like a higher frequency of waves." Libler said Suzanne had faith God would provide for her and she would figure it out. Libler did not know she had an inheritance until he read about it in the media.

In March through May of 2020, Libler and Suzanne talked a lot about mountain biking and Libler looked at the trails online in Colorado and they sometimes talked before Suzanne went for a ride. Suzanne put her bike in her car on her way to the trail heads and did not often ride in her own neighborhood. She normally rode in the evening for about half an hour or forty minutes.

In the first week of May 2020, Suzanne told Libler the girls were going on a camping trip that weekend. Libler said, "Anytime she was alone with Barry, she dreaded it. Didn't want to be alone with him." Barry refused to go to counseling, though Suzanne offered. Barry told her, "You just need to be who you were to me and everything will be fine."

Libler said he thought two things could have happened to Suzanne: "He (Barry) either learned about us and snapped or…maybe she told him she was gonna leave him."

Agents asked Libler what Barry's reaction was when Suzanne mentioned she wanted to separate from him. Libler responded, "He was very much against it. She would say, 'Cause he wants everything to look perfect on the outside.'"

Libler said he does not believe Suzanne reached out to him with the intention of having a boyfriend. He described Suzanne as beautiful, kind, someone who treated people well and a good listener - traits that attracted him to her. Libler said Suzanne is naïve in some ways because she assumed the best of people and "did not see what lies beneath."

While Suzanne lived in Indiana with Barry, he acted suspiciously, like he was having an affair. Libler added, "And then, I can tell you, too, she, over the last year, she's like, 'I'd love for him to find a new girlfriend and just get out.'"

Libler said that so long as Suzanne gratified Barry sexually, it was fine. He added, "I don't think she was deriving a lot of pleasure out of things." When Agents asked Libler if he thought that, or knew it, he said, "I know. She said it's not pleasurable." Suzanne told Libler that she would not completely starve Barry of sex.

Agents confirmed with Libler that he no longer had the phone he used to speak with Suzanne. He explained that in June 2020, he dropped his phone on his stone steps and the face plate shattered. Libler sent the phone into his company and they sent him a new one. The phone the company sent Libler had all the same corporate apps on it as his previous phone but none of the personal apps.

Libler provided consent forms for his DNA,[23] phone records and the logins for his social media accounts. Your affiant served search warrants for LinkedIn and WhatsApp and received records for Suzanne's

---

[23] Libler's DNA was collected and to date has not matched any known item of evidence collected in the case.

LinkedIn account, with photos and texted shared between her and Libler. Your affiant also served warrants on the Verizon account for Libler. The following data was collected:

1. From LinkedIn, Libler and Suzanne sent 59 communications to each other on Saturday, May 9th, with the last outgoing from Suzanne occurring at 2:11 PM, when she messaged, "I'm on wa." Libler sent response messages at 2:39 PM, 2:46 PM and 2:47 PM that Suzanne did not answer. He also sent messages on May 10th and May 11th that were not answered.

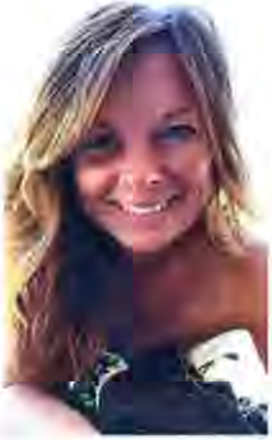
2. Verizon records contained 738 calls between Libler and Suzanne's 317-339-5280 number, between October 2018 and December 2019. Suzanne called Libler 74 times under "International Calls" from the Cayman Islands between January 14 – 18, 2019.

On December 18, 2020, Agents contacted Libler by phone and showed him some of the results of the LinkedIn messaging and photos between him and Suzanne on May 9, 2020.

On May 9, 2020, Suzanne sent a message to Libler at 11:42 AM that stated, "Guess who's alone again??" Libler told Agents that message meant they were free to talk and Suzanne was not surprised that Barry left her alone at home.

Libler confirmed that Suzanne's message at 2:11 PM, "I'm on wa," referred to her starting WhatsApp so they could share video with each other. From referencing the LinkedIn messages before and after, Libler does not believe they used WhatsApp that time or later that day.

Suzanne sent this photo[24] to Libler on LinkedIn at 2:03 PM:



Libler's message to Suzanne at 2:46 PM, "Hey...your weather looks great," may have been in reference to the picture she sent earlier or to Libler checking conditions in Colorado through the Internet. Suzanne never answered that message or subsequent messages by Libler wishing her a Happy Mother's Day on May 10th.

From the return of search warrant on Libler's Verizon phone, Libler used the same Michigan switch (Market ID 227) for all 23 communications from May 7-11, 2020 as he did on the day of the November 13, 2020 interview with Agents at the office of the FBI in Ann Arbor, Michigan.

Following the interview, Libler sent Agents a screenshot of his credit card charges for his Costco wholesale credit card (x6550), under the name Jeffrey S. Libler, for May 2020. Noted are charges in

---

[24] FBI Agents showed this May 9, 2020 2:44 PM photo of Suzanne to Barry multiple times in March and April 2021, since it may be the last proof of life of her independent of Barry.

Wixom, MI for $292.40 at Menards on May 7, 2020, a charge of $26.58 in Howell, MI on May 9, 2020, and Howell, MI on May 11, 2020. These charges are consistent with home improvement stores and the dock project Libler told Agents he was working on in the days leading up to and through Mother's Day weekend at his Michigan residence. Libler also messaged Suzanne on 5/7/2020 saying that he went to Menards and Suzanne asked him on 5/9/2020 whether he had finished his dock.

## SECTION 3: Barry's initial statements May 2020 to July 2020

Your affiant selected statements from some of the interviews of Barry with CBI, CCSO and the FBI from May 2020 through July 2020. Barry's assertions in these interviews are referenced throughout the remainder of this affidavit, to include substantial changes that Barry makes in an attempt to fit any evidence presented to him by CBI agents. The following statements were summarized for the purpose of this affidavit:

### (Barry Interview – May 13th)

On May 13, 2020, CBI Agent Joseph Cahill and CCSO Detective Robin Burgess interviewed Barry. Barry provided a background of his marriage to Suzanne, his daughters, Mallory and Macy, and their living arrangements. Barry explained they resided in Arcadia, Indiana until approximately 2018. At that time, he sold his landscaping business, BLM Landscaping, and other real properties and moved to the residence at 19057 Puma Path, Salida, Chaffee County. Barry, an avid hunter and outdoorsman, explained they moved to Salida to be closer to Mallory, who attends Western State University in Gunnison, Colorado.

Barry stated that he, Suzanne, and Macy reside at 19057 Puma Path. There are no other person(s) who live at this address.

Barry stated he has a family Verizon cellular phone account for his (317-995-2426), Suzanne's (317-339-5280), along with Macy's and Mallory's phones. Barry has an i-Phone 5S; he did not know the model of Suzanne's Apple cell phone, but knew it was pink in color.

Barry stated he is the owner of Sunset Farms, LLC, a landscaping company in Salida. Additionally, he works as a sub-contractor for Diesslin Structures Inc. (DSI), a general contracting company in Salida. Barry stated he has several contracted employees. His primary contractor is Morgan Gentile. Barry stated that Morgan previously worked with him at DSI until she was fired about one year ago. When she was terminated, he hired her on as a contractor.

Barry stated he is also a volunteer firefighter with the Chaffee County Fire District. He is assigned to Maysville, Station 5. Barry stated Suzanne is technically unemployed; however, she would complete the invoicing for Sunset Farms.

Barry stated he and Suzanne have all joint banking accounts; Bank of the West, Collegiate Peaks Bank, and a 501(c)(3) non-profit, "Suzanne R. Morphew Hope Foundation". Barry stated they have other holdings with Morgan Stanley and he uses E-Trade; he also trades in silver and gold.

Barry stated he owns a black 2013 Ford F-350, one gray 2015 Ford F-250 (Mallory's vehicle), one white 2015 Range Rover (Suzanne's vehicle), and one white 2007 Range Rover (Macy's vehicle). Barry said that Suzanne frequently uses Snapchat to communicate with her friends and daughters. Barry stated Suzanne also uses Instagram and Facebook.

Barry's two email accounts are "srmorphew@aol.com" and "sunsetfarmslandscaping@gmail.com".

Barry stated that Suzanne typically wakes up and has coffee. She reads her Bible and emails. She then rides her mountain bike around their neighborhood and then does other things around the house. On occasion, Suzanne rode the Methodist Trails area. Barry further explained that on Sundays she virtually attended their church, Salida Grace. The service is broadcasted on YouTube and generally lasts about one hour.

Barry stated that he typically works until about 5:00 PM or 6:00 PM and returns home. They have dinner and he usually goes to bed around 9:00 PM. Barry stated they typically sleep in the same bed; however, if he is snoring, he will sleep in the "bonus room" on the couch.

Barry stated that Suzanne communicates daily, via Snapchat, with her best friend, Sheila Oliver. Barry said they also communicate via text message. Barry stated Suzanne also communicates daily with Mallory. Macy is typically home at the house, especially with the current school cancelation due to Covid-19.

Barry stated that Mallory, Macy and Holly Booten (best friend of Mallory) departed on or about May 5 or 6, 2020 for a road trip to Utah and Idaho. They were due back May 10, 2020.

Barry explained that in 2019 his company had been contracted to build a retaining wall at a site in Broomfield, Colorado. Two of his contractors, Cassidy Cordova and Cody Cox, were tasked with the work. Barry said that the wall was not completed correctly and he lost $30,000.00 because of it. Barry could not recall that name of the general contractor (GC) for the job.

Barry stated that on Saturday, May 9, 2020, he worked with Morgan Gentile on a job site in Salida. The task was to complete a rock beach on the property. After this job, Barry communicated with Suzanne by text message. They talked about hiking and she later requested him to purchase hot tub chemicals. Barry stated his last message from Suzanne was between 11:00 AM and noon. Barry stated at around 2:26 PM, he texted Suzanne that he was done and was headed home.

Barry stated that some time on Saturday, Suzanne asked him to take her mountain bike and helmet out of her vehicle, which he did.

Barry stated that he cooked steaks out on the grill and they "never even looked at the clock that night." He added, "It's actually one of the best nights we've had in a while, actually" because there were no chemicals in Suzanne. He said they put their phones aside.

Barry explained that on Saturday evening they had dinner together, had sexual intercourse, and went to bed. Barry could not specify a time but believed it was around or after 8:00 PM. Barry stated neither he nor Suzanne left the residence again.

Barry stated that he was scheduled to travel to Broomfield on May 10, 2020, to get eyes on the site and fully determine what was needed. Barry stated Morgan was supposed to travel to Broomfield that evening and Cassidy was due to arrive Monday morning.

Barry stated that he pre-loaded his truck on Saturday night. Barry explained he set his alarm for 4:30 AM on Sunday, May 10, 2020.[25]

---

[25] Barry changed his statement to CBI in 2020 and the FBI in 2021 multiple times about the alarm to match evidence.

Barry stated he awoke to his alarm at 4:30 AM. Barry explained that when he awoke, Suzanne was still asleep in the master bed. Barry stated he heard her snoring. Barry said he showered and left the house at about 5:00 AM. Barry stated he last saw Suzanne wearing short white shorts and a white string-type shirt.[26]

Barry stated that he traveled on Highway (HWY) 50 to HWY 285. He traveled HWY 285 to E-470, north to I-76, and then onto US 36. Barry stated that he went directly to the Holiday Inn and checked in. Barry said he went into the room for a short period of time and rested after the drive. Barry explained he then went over to the worksite.[27] After looking at the site, Barry called Morgan and requested her to bring another person.

Barry stated that he was at the job site at "ten o-clockish." He added, "It was just hotel and job, back and forth." Barry stated he drove to a McDonalds near the jobsite and cleaned his windshield. He then went back to the hotel room. He stayed in the room for about one hour and possibly watched television. Barry then returned to the jobsite.

Barry stated, in response to the question if he ate that day, "I kinda looked for something to eat." He said that he always keeps granola bars in my truck. He said, "I saw a McDonald's, pulled in there. I don't like crap food, so I thought, I'm not gonna eat here." He added, "So I just ended up eating granola bars."

While on the jobsite, Barry explained that his neighbor, Jeanne Ritter, called him and explained Mallory still could not reach Suzanne. Jeanne, who has the access codes for the house, asked to go check the house. Jeanne discovered Suzanne's car was there; however, her mountain bike was not.

Barry stated he had texted Suzanne, "Happy Mother's Day," earlier, as did their daughters. Barry stated his daughters had not received any replies from Suzanne. Also, Barry stated there is no cellular phone service at the house, unless the phone is on the Hughes Net Wi-Fi internet service.

Barry stated, "I was at the job site when Jeanne called me," adding that Jeanne called around 5:00 PM. Barry left the jobsite and drove to the hotel where he dropped the tools off in the lobby. He then drove directly back to Salida.[28]

Barry initially said there were no issues with their marriage. Later in the interview, when asked, Barry disclosed they did fight. Barry explained that Suzanne has battled through stage-four Non-Hodgkin's Lymphoma several times in her life. The most recent battle started late last year, 2019. Suzanne was receiving maintenance treatments at the cancer center in Salida.

Barry stated that Suzanne started using hydrocodeine and alcohol. Barry stated this drug and alcohol use would sometimes lead to arguments, during which, Suzanne would accuse him of being controlling. Barry described Suzanne's demeanor as "hateful." Barry stated the last argument they had was Friday morning. He denied any physical abuse or altercations between Suzanne and him. [29]

Barry stated their daughters did not know about Suzanne's substance use and demanded that information not be disclosed to them. In fact, when asked, Barry admitted he deleted text messages from his cell phone because he did not want their daughters to access his phone and read those messages.

---

[26] Barry changed his last sighting of Suzanne throughout 2020 and 2021 numerous times.

[27] All of the statements in this paragraph are later proven false.

[28] On April 22, 2021, FBI Agents showed Barry surveillance photos of him being in his hotel room, not the job site, when Jeanne Ritter called him at 5:00 PM.

[29] Throughout his interviews, Barry moved from referring to a "perfect" marriage and a "perfect" Friday night, to admitting he fought with Suzanne often.

Other statements by Barry in this May 13, 2020 interview include:

Barry stated, "I mean, I just - I just know that there's nothing in my truck, there's nothing in my house. I know that for a fact, unless somebody came there Sunday morning after I left. That's all. I'm - I'm just being honest with you. Th- they can be there for 10 weeks. They'll never find a single thing. But..."

Barry interjected Cody Cox as a suspect, that Cox allegedly threatened to kill Barry.

Barry, consistently, throughout the interview, questioned why he had not "been cleared" in the investigation.

Barry initially identified the Cushman's "cleaning lady's daughter and boyfriend" as possible suspicious persons.

Barry stated, "because if somebody went in and did something and took her and then ditched her bike to make it look like something then I - I want you guys to find that evidence" – however, he states multiple times, "there's nothing in the house, nothing in my truck."

Barry stated, "And she would get so angry sometimes and even hateful, which is not her." Barry stated during these arguments, Suzanne has stated, "I'm gonna leave you. I'm gonna divorce you. I'm just -- and she doesn't mean it - I know she doesn't mean it - but in that state of mind."

When asked about working on Sunday he stated, "It's Mother's Day. It's not like it's husband day."

He stated he stayed at the worksite with the quote, "I think I was there until probably 6:00."

In regards to the call(s) to Jeanne Ritter, he stated, "She calls me and says, "Hey, her car is here." And I said, "Well, is her bike there?" She goes, "Where does she keep the bike?" And I said, "Well, I pulled out (sic) her car. It should be right near the car." She goes, "There's no bike here. (Unintelligible) look here in the back." And I said, "Well, she's ridin' her bike but I'm a little concerned, because I think she said she was gonna take a morning ride".

In regards to inspecting the clothing, Barry stated, "Yeah. She doesn't ride without a helmet…And she has...a light - light blue helmet. Her favorite biking outfit is blue. I haven't been to the house to see if it's there or not but if the detectives - if you guys didn't find it, then that's probably what she was wearin'. Was the blue one missin'? light blue helmet, light blue outfit. She's a matcher. Light blue shirt…but was that at…in her closest? Or did you guys find it?"

Regarding the bedding, Barry stated he observed sheets in the dryer---he stated, "Was her whole bed - (Mallory)'s - 'cause I wasn't in (Mallory)'s room. Was the whole bedding off?"

Barry was asked to voluntarily submit to a polygraph examination, which he declined and said he would think about – said he "didn't want to do anything that wasn't 100% accurate;" he also said they "weren't admissible in court."

Agent Cahill observed scratches on Barry's left upper arm. Barry stated, Yeah, like, that from a tree…in, uh - wh- when we were hikin' in the mountains." [30]

---

[30] These injuries appeared to be healing, several days old scratches.

**(Barry Interview – May 21st)**

On May 21, 2020, CBI Agent Cahill and Agent Derek Graham interviewed Barry for the purpose of reviewing the "Victimology" packets of Suzanne that were prepared by the Behavioral Analysis Unit (BAU) of the FBI. The interview was audio recorded. The following quotes were selected by SA Grusing for this affidavit:

Barry stated, "I just, I just wish that you knew how amazing she was." (Referring to Suzanne in past tense.)

Per Barry, Suzanne began to abuse anti-depressants and alcohol to get away from the stress and anxiety of dealing with chemo and cancer. He said, "It's the only thing we argued about," and he cited text arguments. He added, "When she was in that mind, it wasn't her."

Barry said that it was Suzanne, not him, who wanted to move from Indiana.

He stated, "We (men) need sex. That's all we need and we'll be good."

Barry discussed the pills Suzanne took and how he "begged" her to stop taking them. He added that she got "mean" and angry.

Barry stated that Suzanne had friends she kept from him, evidenced by her attempting to text someone and her saying it was none of his business, that it was "private."

Barry said that Suzanne gave her passcodes to him and he could access her phone, but it was "very suspicious" why she did not tell him about some of her communications.

Barry said that he gave Suzanne $300 to $400 per week for spending. He said, "She never went to an ATM. I'm - Barry was the ATM."

Regarding Barry leaving Suzanne alone on Mother's Day, when she disappeared, he replied that his girls were supposed to come home "and I didn't feel bad, because I thought they were going to be there around lunchtime."

Barry stated that Suzanne's alcohol consumption increased after May 6th, when the girls left town and she did not have to hide the alcohol from Macy.

Barry said on Friday "I think we jumped in her car and went to Moonlight (pizza). Got a pizza and a salad." He said that they ate the pizza in the car and brought it home or brought it home to eat. "Maybe ate some of the um, some of the pizza on the way home and ate the salads."

Barry stated that Saturday (May 9th) morning, he got up early, probably had to put a few tools in my truck." Suzanne thanked him for the breakfast and was "perfectly normal," giving him a kiss goodbye and "everything was great." He told her that he would be home soon and they "could go bike riding or hiking or something." Barry added that it was a "perfectly normal day," and, "She was in a perfectly good mood."

When asked if anything out of the ordinary happened, Barry said, "No, no, it was a perfect day, Saturday." When Agents asked Barry if Suzanne had been drinking, he said that he did not pay much attention because he "wanted to have a good night with her."

Barry said that they grilled steaks and did not leave the house after he got home that day. He said that he and Suzanne laid out on the patio in the sun. Barry said that she made soup for lunch. He left his phone alone because he wanted "a nice evening with my wife."

Suzanne talked to Barry that evening about purchasing a house in town for $800,000. He said that Suzanne was not on her phone that night that he knew of.

When Agents asked Barry if he and Suzanne went to bed together, he replied, "I'm pretty sure we do," and later, "I'm pretty sure we went to sleep together that night." Suzanne did not leave the house after they had sex and went to sleep.

When asked by Agents specifically if Barry used his phone to set his alarm for 4:30 AM on Sunday, he stated that he "just woke up on my own without an alarm."

CBI Agents asked Barry why he answered, "Sex," as the number one reason why someone might be motivated to cause Suzanne to disappear on the BAU questionnaire. He answered, "Because my wife is beautiful." He added, "And that's my nightmare right now, like if somebody's got her and sexually abusing her right now as we speak."

Agents told Barry that workers who came to his hotel room following his May 10th departure commented that the room smelled like chlorine. He replied that he had no idea why and that maybe the hotel staff used it to clean because of COVID.

Agents also told Barry that documents were left in the room and asked him if he took any documents into the room. He replied, "Not to my knowledge. There was somebody in the room after me. It could have been his."[31]

When Agents asked Barry why he did not pick up Morgan Gentile, as agreed, on Sunday for the ride to Broomfield, he stated: "I didn't want her to ride with me because she smokes," and, "I told her I wanted her to drive her car," and, "She was just gonna follow me."

**(Barry Interview – May 28st)**

On May 28, 2020, CBI Agent Cahill and Agent Derek Graham interviewed Barry and audio recorded the interview.

Barry was asked about the tranquilizer darts in his house. He stated that the darts' purpose was to tranquilize bucks to sell them. He said the bucks could then be placed in a trailer that has cubicles. The tranquilizer is a sedative/narcotic and he only did this "tranqing" and selling of bucks back in Indiana. Barry said he has not used the tranquilizer or darts in Colorado.[32]

**(Barry Interview – June 2nd)**

On June 2, 2020, SA Grusing met with Barry at a house near his residence to conduct an interview regarding the "victimology," or pattern of life, of Suzanne. The interview was audio recorded.

Barry said Suzanne might leave him but would never leave her daughters. Barry also agreed that an animal attack was unlikely and that an accident was unlikely, based upon the positioning of the bicycle and helmet.

---

[31] In April 2021, Barry told a different story about the documents to FBI Agents.

[32] This statement contradicts Barry's admissions to the FBI in 2021 of using tranquilizer darts and disposing of the evidence.

Barry talked about Suzanne abusing alcohol and drugs, saying the last time Suzanne was doing well was, "The first summer we were here," specifying that was the summer of 2018. [33]

Barry told SA Grusing that he thought Suzanne was abducted by someone. SA Grusing explained that the last similar violent act that occurred in the Salida area happened in 1980. Barry was informed of the time of day Suzanne was riding, the low-traffic area, her minimal exposure in the community and other low-risk factors and stabilizers in her life. SA Grusing told Barry this looked like an "intimate partner homicide" and Barry did not object.

SA Grusing noted Barry listed "Sex" as the top motivation someone might have had for Suzanne's disappearance. Barry said he listed that because of how attractive Suzanne was.

SA Grusing asked Barry why he only wrote "Convict" for his response on what should happen to the person responsible for Suzanne's disappearance. He replied, "It should be 'convicted and held responsible.' I mean that's not what I wanted to write but, I mean I, inside me, I feel like I would like to physically harm them if they did this to my wife, that's, but."

When Barry was asked of his last image of Suzanne, he initially replied that he did not see her on the morning of May 10th or remember a last image. SA Grusing walked Barry through his prior statements of seeing Suzanne and describing her clothing. Barry was asked multiple times what his last image of her was and he did not answer the question. Finally, to elicit some response, SA Grusing asked if he even remembered seeing a lump of covers in his bed before he left for Broomfield. Barry replied that he saw, "Probably just the lump, there. I, I, I, detail is, remember her breathing."

Regarding Friday, May 8th, Barry stated, "But, in the afternoon, it (the text fight) was like it never happened. She texted me back and it was just like, 'Hey, what time are you coming home? Hey, this or that. Just pick this up or pick that up.'"

Regarding the afternoon of Saturday, May 9th, Barry said when he arrived home, Suzanne had vegetable soup waiting for them and they "just kinda sat out in the sun." They sat out in the sun, talked, had a good day and decided they were going to grill steaks out that evening. He said she was "perfectly fine because there was no alcohol in her." [34]

Regarding Suzanne's activities on Saturday night, Barry stated, "She took Mallory's sheets off and washed them (Saturday evening)."

Barry was asked if other people had passwords to get into the phones and laptops of Suzanne. He replied that Suzanne told him what her last password was - 198929.

**(Barry Interview – June 3rd)**

On June 3, 2020, CBI Agents Cahill and Graham interviewed Barry at his residence. The interview was audio recorded. The following quotes are selected for this affidavit:

Regarding Friday morning, May 8, 2020, Barry stated, "That we had our text argument, I don't even remember what it was about. She was in one of her moods."

---

[33] Suzanne's affair with Libler started in the late spring, early summer of 2018

[34] Barry would later tell SA Grusing that Suzanne was drunk when he was shown her last proof-of-life photo she sent to her lover at 2:03 PM on Saturday.

When questioned about their activities Friday evening, Barry responded that they "probably watched tv and Suzanne is usually on her computer; she's typically on the computer, maybe doing a class online, she always looks for clothes online." He added that she did not apologize about the texts that morning – like nothing ever happened.

Regarding Saturday (May 9th) morning, Barry stated that he did not set alarm or recall what time he got up. He made himself and Suzanne breakfast; set it next to her in bed. He said, "I think I made bacon and eggs and toast."

Regarding Saturday, Barry stated that he got home and Suzanne had a bowl of soup ready for him. They talked about hiking and biking; they spent the day together and sat outside in the sun and talked for an hour.

Regarding Saturday, Barry stated, "I honestly don't recall what we did after that (soup), but I think we hiked here in the subdivision. Yes, we did hike, we hiked to Fooses that night." Then, twice, "I'm pretty sure that's the night we hiked Fooses."

Barry stated, "I know we sat down at the lake for a while. I'd say we were gone for an hour and a half, maybe." He added, "It was actually a good day. She didn't drink at all. It was a normal, nice afternoon."

Barry stated that he got back to the house "probably around three or four. Talked about the dinner and she said she was gonna make some potatoes." He said he "would marinate the steaks; I'm probably in the garage, I usually tinker around there, killing time." He added that Suzanne was probably doing Mallory's sheets, adding that Mallory's bed was a free-for-all while he was in the garage tinkering.

Barry said, "Just had a wonderful evening and she was perfectly fine because there was no alcohol in her." He again said he asked her not to drink that night.

Barry stated that after dinner, Suzanne did the dishes and he went back into the garage, fixing the pin on the bobcat. Barry stated, "I think I recall seeing 4:15-ish, when I get up and knowing that hey, if I leave at five, I'll get there at eight." He added, "I probably got up took a shower, got my clothes on."

Barry added that Suzanne was naked the last time he saw her, so he did not know what she was last wearing.

Barry stated that he went into the dryer looking for socks and saw Mallory's sheets, and he dug through some of Suzanne's clothes in the dryer; a pair of her shorts was in there.

Regarding Sunday morning, Barry stated, "I think was getting hungry, I think went to a McDonald's that was close, and I think when I was there, I think I decided against McDonald's, but I never eat there, and because of COVID, so I think I went around the corner to a gas station and got a granola bar."

**(Barry Interview June 17th)**

On June 17, 2020, CBI Agents Cahill and Derek Graham interviewed Barry. The interview was audio recorded.

When questioned of anything recently that "might have been a first" for Suzanne, Barry responded that she started taking THC/CBD edibles and oils [about a month "before she left"]. Barry reported that she was getting it from "a guy in Westcliffe" named Tim and that Barry could provide Tim's contact.[35]

Near the end of the interview, Barry provided Tim's phone number. Barry separately said that Suzanne was buying drugs "off the street" and cited that the person from whom she was buying drugs is a viable suspect for her disappearance.

---

[35] See interview summary of Timothy Agnew in Section 5. Barry purchased CBD oil from Agnew in 2019.

**(Barry Interview June 25th)**

On June 25, 2020, CBI Agents Cahill and Derek Graham interviewed Barry. The interview was audio recorded.

Barry said that Suzanne's family, the Moormans, were involved in marijuana and maybe they were responsible for her disappearance. He referred to Suzanne's sister, Melinda, as being "wicked," and her brother, David, as being "smart enough to do something like this. He's brilliant." After suggesting that maybe Suzanne's siblings should be considered as alternate suspects, Barry stated, "sometimes when people are guilty, then they point the finger because of their guilt."[36]

Barry thought that Suzanne and Curt Sigler might have been having an affair. Barry said that he never looked at Suzanne's phone because he did not want to lose her trust, but that she looked at Barry's phone "all the time."

Barry said that Suzanne had the body of a thirty-year-old and that "they (women) give us sex. That's all we ever want or need."

Barry said, "I guarantee you that my tech from my truck and my phone will exact match my interviews because I know for a fact what I've done."

Barry provided the phone number for "Tim from Westcliffe," who might be involved in Suzanne's disappearance.

**(Barry Interview - July 8th)**

On July 8, 2020, CBI Agents Cahill and Graham interviewed Barry at his residence. The interview was audio recorded.

Regarding the worst text Barry deleted, he said, "If I remember right, it was Friday morning. I was working and she was in one of her moods."

Barry stated (regarding Sunday), "I went in, got the hotel room, relaxed for a little bit. Went to the job site and seen it," then added, "pulled several blocks off and left it."

Barry stated, "And that's (McDonald's) the only places that I remember going." He adds, "I did nothing else, besides went to the job site and went to the hotel."

Regarding Saturday, Barry stated, "We sat out in the sun. She was sunning and wanted me to sit out with her…I know we went to Fooses. And I can't remember exactly if it was Saturday, but I'm thinking it was Saturday, we took a walk up around Fooses, and come back and she read. I tinkered around outside and did things outside until supper and grilled steaks."

Barry stated, "If I went to DSI, it wasn't in the afternoon," and, "I could've ran back to Crib and had him put the blade on."

Barry said, "I know I made steaks on the grill. That's one thing that I know I did."

Barry stated, "We had a lot of good time together that week." Regarding the argument Friday morning, Barry stated, "To be honest with you, I can't even remember what it was about."

---

[36] Barry made a similar statement again in an interview with CBI Agents Cahill and Graham on July 1, 2020. Barry said that Melinda and David appeared to be pointing the finger at him and stated, "So I don't understand how - why they're doing that unless they're guilty. But sometimes people that are guilty say hey - hey - hey, you know, he did it - he did it - he did it." When Barry has suggested alternate suspects like Melinda or David, he seems not to recognize that he seems to be doing the very thing he is explaining that is supposed to indicate a person is guilty.

"The alcohol got worse and worse and worse those last three months," and "She was drinking every single day."

Barry stated, "I just can't remember any specifics" (when informed by CBI about the long phone call on May 8th), adding, "To be honest, I just can't remember us talking on the phone."

Barry stated, "That weekend, nothing out of the ordinary happened. It seemed normal and perfect."

Barry stated that with the girls gone, "her (Suzanne's) phone would've been on all night Saturday."

Barry stated, "I think there was some trash in my truck," adding, "wrappers, bottles and junk that accumulated over the work week." He said that he threw the trash in a garbage can and went to the gas station and "got a granola bar."

Barry stated, "I'm pretty sure when she (Jeanne) called, I was right there at the wall," adding that he loaded up his tools, took them directly to the hotel, told the lady working in the hotel lobby that he had an emergency and asked if he could leave the tools in the lobby.

When asked if he threw anything away at the hotel, Barry replied, "Not that I recall. I mean I could've, but not that I recall." When asked to be specific he replied, "Not that I recall." Barry was asked twice if he took anything into the hotel room besides his backpack and he replied that he did not.

Barry stated, "I don't know," when asked by CBI when was the last time Suzanne talked about leaving him. When asked if it was recent, he replied, "No. I don't, I don't ever recall her saying she's going to leave me."

Agents asked Barry if Suzanne ever told him that she was "done," and Barry stated, "She's never said that. She loves her family too much."

Barry stated, "We grilled a steak. Split it."

Barry stated, "We had two different plates that night."

This statement was refuted by Agent Graham, who explained that it appeared only one plate was recovered from among the items the dishwasher. Barry replied that he must have hand-washed his own plate.

Barry stated, "Because she started drinking," in response to the statement by CBI that he and Suzanne's behavior got worse the minute the girls left on the trip. "And she was drinking the whole time."

Barry stated, after multiple assertions that he did not recall what "junk" he threw away, that he might have thrown away an old pair of boots that had been in the back of his truck. After CBI told him multiple times that he threw away more than boots, he stated, "If there's clothes in my truck, there was probably old clothes I threw away."

Barry was told by CBI that he showered at the house before leaving and showered at the hotel when he arrived. He replied, "Showers relax me."

Barry stated, "I change shirts all the time," when told by CBI that he changed shirts twice after getting the hotel. When asked why, he stated, "I don't even recall changing shirts that day."

When confronted by CBI Agents that the video footage from the hotel contradicted Barry's statements that he was at the wall on the job site when Jeanne Ritter called, Barry did not refute the evidence.

The property of 19057 Puma Path (not including the house) was searched following this interview, pursuant to the issuance of a search warrant, for the remains of Suzanne. Results were negative.

**(Tips to CBI)**

As of April 26, 2021, CBI has received 1,485 tips for Suzanne Morphew's disappearance. These tips are reviewed and investigated as they are received. Numerous people have been identified, interviewed or investigated due to circumstantial reasons related to them being in the area or associated in some way with the family. Investigation into a small number of these tips is ongoing, though none of them have provided any evidence to substantiate anyone as a legitimate alternate suspect or to counter the evidence against Barry highlighted in this affidavit.

## SECTION 4: Evidence

### (Tire Impressions)

On May 14, 2020, search teams located tire impressions in the area where Suzanne's helmet was located. The GPS coordinates are (38.54954, -106.25787). On the same date, the tire impressions were casted by Agents with the Colorado Bureau of Investigations for late possible comparisons. Detective Hysjulien advised SA Grusing on August 26, 2020 that only one tire impression was suitable for testing.

### (Ford F-350 Telematics)

On May 14, 2020, your affiant prepared a search warrant for the Telematic data from Barry's Ford F350 truck. On the same date your affiant submitted the search warrant, affidavit and service request form to the Rocky Mountain Regional Computer Forensic Laboratory (RMRCFL). The results of this data will be discussed in conjunction with the RMRCFL search of Barry's phone.

### (Search of Residence on May 20, 2020)

On May 20, 2020, search efforts were still ongoing at the Morphew residence, searching for evidence related to Suzanne's disappearance. On this date, Detective Hysjulien located a writing pen, (that appears to be the "spy pen" Sheila Oliver referenced). The pen was located in a cloth bin amongst women's bras. The cloth bin and pen were inside the walk-in closet in the master bedroom, located on the ground level of the residence. Detective Hysjulien located, with the pen, the controller and headphones for playback and a USB cable.

### (Spy Pen Recordings)

On May 23, 2020 Detective Hysjulien transported the seized "Memo's" audio recording pen to the Colorado Springs Police Department (CSPD) Digital Forensics Unit. CSPD Detective Bryan Rodgers, conducted the search and data recovery of the "Memo's" pen's content.

Some of the audio files on the pen were deleted, however, two of those deleted audio files were retrieved during the search and analysis by Detective Rodgers.

On May 24, 2020, Detective Hysjulien started reviewing the audio on the recording pen. The recordings appear to run from February 2020 to March 2020 based upon the context. Detective Hysjulien gathered the following information:

Suzanne communicated with two different male voices, one self-identified as "Barry" and the other was identified by Suzanne as "Jeff."

One of two conversations between Suzanne and Jeff sounded to be of an intimate nature. The conversation between Suzanne and Barry is confrontational and their voices are raised.

Under the file numbered "03/22/2020," Suzanne appears to place her recording pen in the truck of Barry as he took a trip to Pueblo. The pen recorded him listening to multiple episodes of "Forensic Files," to include: the killings of Mary Lee Wilson and Donna Payant by Lemuel Smith; the murder of Vicki Lynne Hoskinson – who went missing after riding her bike.

Hoskinson's sister finds the bike and discussed it was found in the middle of the road. The case began as a missing child, her family pleaded on TV for her return. Discussion also included the location of Hoskinson body in Tucson being a remote location, how animals had scavenged her bones and investigators trying to determine when she was killed.

Barry further listened to the Forensic Files case of Walter Scott, a man that went missing, but was later determined to be a homicide victim of James Williams. While Scott was married to "JoAnn" he had an affair with a woman named Suzanne. Meanwhile, JoAnne was cheating with a man named James Williams. Williams killed his first wife (staged car accident) and married JoAnne after killing Scott. Walter was reported to be acting "not himself" in the days prior to his disappearance.

A phone call is recorded between Barry and Suzanne in which Suzanne calls Barry, "Shirley," his mother's name, after he tells her how to cook. Barry asked Suzanne why she has to "be so mean" to him. Much of the conversation is unintelligible because of the truck noise.

Barry listened to other Forensic Files episodes of homicide investigations during the five-hour recording session.

(Pen Recording of Argument with Barry)

Sergeant Hysjulien and FBI Agents Stephanie Benitez and Kenneth Harris listened to the recordings on the spy pen and collaborated with RMRCFL to attempt to mitigate the background noises that interfered with the audio. The following relevant portions were recovered:

In March 2020, Suzanne told Barry the following:

"This is all I hear every day. This is all I hear every day. What I'm not. What I should think. (undecipherable) I am not listening to that anymore! Listen to me… Listen to me (Barry interrupting). Listen to me. Listen to me…I have lived for years being told how I should feel, how I should act, how I should look, what I should drink, what I shouldn't drink, what I should put in my body, what I shouldn't put in my body…" (undecipherable) I fell into this… This is not….. (undecipherable) ..controlling…. more talking…it's not okay…front and back…."

Later in the conversation, Suzanne and Barry were arguing:

Suzanne: "You want me to just"
Barry: "No, I am just asking you to"
Suzanne: "blindly go into this."
Barry: "You don't have to blindly do anything. I'll make plenty of money this year to pay you back."
Suzanne: "I don't want to talk about it since you yelled at me the other day."
Barry: "Okay I will make plenty of money this year, this summer to pay you back, probably within in a month. This is something that I told you that was important and you decided to go against my wishes."

Suzanne later stated, "It's all about money" Then she added, "Eighty-percent (80%) of our arguments are because of money." She added, "It's money. It's about money." At 1 hour 17 minutes, Barry stated, "If you want your money, I'm going to pay you back. I'm going to make plenty of money," and, "I told you it was important. You decided to go against my will and my wishes." Suzanne responded with words to the effect of, "Not against it. You brought it up and we talked about it."

(Suzanne's Conversations with "Jeff")

SA Harris provided the following synopsis on Suzanne's recording with "Jeff" that occurred during her February 2020 trip to Florida (hard to hear in some places):

- Jeff is driving north on 75 during their conversation.
- Jeff talks about a potential job and says he can't take it. Suzanne asks whey and mentions the weather in Michigan in February. Interstate 75 does travel north/south through Michigan.
- Jeff and Suzanne appear to be talking possibly about trying to meet up around Valentine's Day. Suzanne seems to reference being sure that Barry would be at home at the time and would not show up.

There is a reference in the Suzanne and Jeff conversation to Tuesday the 11th and Valentine's Day as if they are still coming up and possibly talking about or making plans for those dates (February 11, 2020 was a Tuesday).

At 21:08, Suzanne takes a call on speaker phone. She stated, "Hi Sweetie. I'm good, how about you?" Suzanne and the male, presumably Jeff, discuss her trip in Florida.

She later stated that Barry was flying to Florida and she thought, "It's just weird. Weird stuff. This whole Valentine's Day thing [inaudible], but I was kind of happy to hear that, because maybe we are in the clear."

Jeff replied, "Well, like I said, I don't want it to be a stressful thing. I just don't."

Suzanne stated, "Jeff, come on, I'm the one who started the whole ball rolling." She added, "I mean, there's a lot that went on last week that I haven't told you about. And not good, not good stuff. So, I really think he feels bad about that too…You are not a home wrecker. You are my lover and my sweet friend. And the man I love dearly. Ok?"

Jeff stated, "I won't. I just want you to be happy, that's all."

Suzanne replied, "I'm looking at the man who makes me happy."

(Tranquilizer)

On May 19, 2020, CCSO Deputy Scott Himschoot was present during the search at 19057 Puma Path, in the laundry room, and was asked to collect a "pneu-dart box, empty," one plastic hypodermic cover, one Pneu-dart book from safe in garage, one dart from box under bench in garage, among other items. The plastic cover was located by evidence search teams in the dryer, inside of the sheets belonging to Mallory's bed. These items were sent to the CBI Laboratory for testing.

(CR 105 Search)

On May 22, 2020 at approximately 9:05 AM, pursuant to the issuance of a search warrant, search teams along with K-9s and K-9 handlers (Blood Hound Man Trackers, NecroSearch) searched the property at 6962 County Road (CR) 105, a site where Barry had been conducting earth work since April 2020. A local resident had reported heavy machinery being used late at night on Saturday, May 9, 2020. During this search, three K-9s were ran blindly and individually across the property. NecroSearch and the FBI

Evidence Response Team (ERT) worked with CCSO and CBI to remove portions of the poured concrete slab and search through the new construction.

On May 23, 2020, a second excavation was conducted at the property in attempts to find the remains of Suzanne. Results were negative.

(Facebook Friend Requests)

Subsequent to the issuance of a search warrant, your affiant received the Facebook business record for the account of Suzanne Morphew. FBI SA Grusing and FBI Staff Operations Specialist (SOS) Robert Bos reviewed the results. Twenty males (three of them with the first name "Jeff", though Jeff Libler was not on the list) and three females were "new friends added" to Suzanne's Facebook account between Friday, May 8, 2020 at 9:04 PM (MST), through Saturday, May 9, 2020, at 6:01 PM.

From a cursory review of Suzanne's account dating back to January 1, 2020, these friend requests were out of the norm for Suzanne. Though Suzanne received over twenty friend requests from others in 2020, her Facebook account profile initiated no friend requests until May 8th.

Of the 23 people who received Suzanne's request, none were able to confirm with Suzanne that it was actually her who sent the request. FBI and CCSO interviewed over ten of these recipients, most of whom live in Indiana.

Derek Thurston, who received a request from Suzanne's account on May 10, 2020 at 10:12 AM, said he knew Suzanne from junior high and high school in Alexandria but was not a close friend of hers. Thurston thought it odd that Suzanne decided to send the friend request after not talking to him in over 25 years. He added that she did not seem like the type who was desperate to "friend" people whom she did not know well.

Bobby Huff, who became Facebook "friends" with Suzanne on May 9, 2020 at 9:33 AM, graduated with Barry from Alexandria Monroe High School (AMHS) in Alexandria, Indiana. Huff has not talked to Barry or Suzanne Morphew since 1985. Huff stated that Suzanne "would never see me and friend me (on Facebook)." Huff explained that her sending of the invitation felt "weird" to him and not something Suzanne would do after such a long time of not speaking, especially the day before she disappeared.

Huff added that many rumors were flying around Alexandria that Suzanne and Barry were not happy in their marriage, that Barry was in financial trouble and that he was involved in shady business dealings.

Shane Phipps became Facebook "friends" with Suzanne on May 8, 2020 at 9:08 PM. Phipps said that he did not know Suzanne because she was younger than him, but he and Barry knew each other from AMHS since Phipps was one year older than Barry.

Wade Pulliam called the Suzanne Morphew tip line. Pulliam wanted to report receiving a Facebook request from Suzanne on Friday May 8, 2020, at 10:05 AM, which he found strange because he has not spoken with her in thirty-plus years.

Ricky King became Facebook "friends" with Suzanne on May 9, 2020 at 9:31 AM. King had his phone with him when he received the friend request on that Saturday, May 9th. He accepted the request though he had no real contact with Suzanne or Barry since high school. King described the friend request as "strange," considering the timing and the fact that he did not know Suzanne or Barry well.

(Range Rovers Seized)

On May 16, 2020, CCSO seized the two Range Rovers located in the garage at the Morphew's residence. The vehicles were towed and taken to the CCSO secure impound facility to secure them for further evidence processing.

On May 20, 2020, your affiant spoke with FBI Special Agent Dave Donati regarding the 2007 Range Rover and the 2015 Range Rover Telematics. SA Donati explained the 2007 Range Rover would not contain Telematic information but the 2015 may contain this data. On April 29, 2021, SA Grusing advised that the results of the examination by the FBI's technology division for the 2015 Range Rover have not been completed.

(Barry's Verizon Records)

On May 12, 2020, your affiant spoke with Special Agent (SA) Kevin Hoyland with the FBI Cellular Analysis Survey Team (CAST). SA Hoyland requested that cellular records be obtained for one month prior to law enforcement being notified on May 10, 2020 when Suzanne went missing. SA Hoyland explained the records will be useful to establish a pattern of life for Suzanne with her call detail records. Search warrants were served to Verizon Wireless for detailed record information to include all geolocation information on the following people: Suzanne Morphew 317-339-5280, Barry Morphew 317-995-2426, Macy Morphew 317-385-5600, Mallory Morphew 317-385-5384, and Miles Harvey 719-239-1062.

To date, no evidence has been obtained to include outgoing phone calls, outgoing SMS text messages, vehicle movements, sightings on video cameras, or sightings by an independent witness other than Barry, that Suzanne left the Morphew house after May 8, 2020 at 7:06 PM.

FBI SA Grusing, Computer Scientist Brian Turner and CAST Agent Hoyland, along with personnel from the RMRCFL, have examined Barry's cell phone. SA Grusing wrote the following regarding Barry's cell phone content as it relates to Suzanne's disappearance:

From 5:41 PM on Friday, May 8, 2020, through Sunday, May 10, 2020, all eleven calls between Barry and Suzanne are outgoing from Barry to Suzanne.

Out of 58 voicemails on Barry's phone, none are from Suzanne.

Barry deleted numerous calls between himself and Suzanne from May 4-5, 2020. When asked by FBI Agents in April 2021 why he deleted those calls, he said he did not recall doing so and he must have been freeing up space on his phone.

On January 7, 2020, Barry's phone searched "how to make a girl orgasm utube" (Recovered from Deleted Web Searches on Barry's phone).

Barry's phone searched "Older Man Younger Woman Relationships – YouTube" (Recovered from Deleted Web Searches on Barry's phone).

On January 8, 2020, Barry's phone searched the Facebook help page "I can't reset my Facebook password because I can't access the email or mobile phone number on my account. | Help Center" (Recovered from Deleted Web Searches on Barry's phone).[37]

On January 24, 2020, Barry's phone searched "3rd base! My first hand job: Dear Teen Diary, 9th Grade, Entry 14 – You Tube" (Recovered from Deleted Web Searches on Barry's phone).

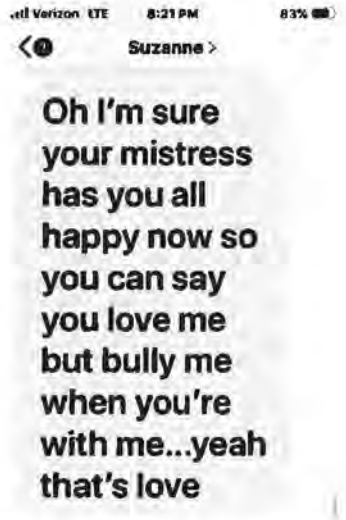
---

[37] Reference the password reset on Suzanne's i-Phone on the night of May 8, 2020 (Reference Barry's Phone Section for May 8th)

On January 25, 2020, Barry's phone accessed, "LocalSnapSext.com," "Find a Cute Girl Near Salida," and, "Come Get Dirty, Ashley Madison" (along with other such sites that were recovered from "Deleted Web Searches" on Barry's phone). [38]

On March 19, 2020, at 6:44 AM, a video on Barry's phone was taken of a prescription drug bottle of Suzanne Morphew for Mirtazapine.[39]

On April 24, 2020, Suzanne sent Barry the following message that was recovered from deleted images by the RMRFCL:



Oh I'm sure your mistress has you all happy now so you can say you love me but bully me when you're with me...yeah that's love

RMRCFL examiner Jim Stevens found the above image as one that Barry likely swiped the message off his screen and the swiped image was saved. This message was not recovered separately in Suzanne's iCloud storage or Barry's phone.

On May 4, 2020, at 4:04 PM, Barry made an outgoing call to Suzanne that lasted three seconds. This was the first logged call in Barry's phone to or from Suzanne since February 7, 2020.

An additional six calls, incoming and outgoing between Suzanne and Barry were made that day until 6:07 PM. [40]

(May 5-10: Barry's Phone and Other GPS Sources)

For the context of examining data from Barry's phone, a comparison of the locations from his Ford F350, as gathered from the return of the search warrant for telematics, together with the Verizon return from Suzanne's phone, per search warrant return, are included by SA Grusing for the dates of May 5, 2020 through May 10, 2020.

On May 6, 2020, Barry called Suzanne six consecutive times between 8:06 AM and 8:13 AM before she sent the aforementioned "I'm done. Let's handle this civilly" message at 10:13 AM. That message was recovered from RMRCFL as a deleted image from Barry's phone.

On May 6, 2020, from 2:43 PM to 5:00 PM, Suzanne received four messages (deleted from Barry's phone prior to seizure of his phone on May 13, 2020) from Barry, which referenced,

---

[38] When Barry was asked by CBI if he ever searched online to meet other women, he replied, "No, never." (Reference July 8th interview). He added, "Absolutely not, never."
[39] In Barry's interview with CBI on June 2, 2020, he stated that Suzanne was abusing her prescription pills.
[40] Suzanne's Verizon records, however, account for eight calls between her and Barry that morning.

"When I'm dead,"
"Going to see my savior," and
"This life on earth is a mear (sic) grain of sand compared to eternity."

The location activities registered by Barry's phone were abnormally high in frequency during the late nights and early morning hours of May 8-9, 2020 and May 9-10, 2020 while at the Morphew residence.

On May 8, 2020 at 7:06 PM, Barry's phone called Suzanne while his phone was likely traveling west along US-50. Suzanne's phone location was approximately three miles east of Barry's phone. The call lasted 73 seconds and was the last recorded phone call for either device on May 8, 2020.

On Friday, May 8, 2020 at 7:18 PM, Barry's phone registered its last event of the day; its next event was at 6:46 AM on May 9, 2020, when Barry's phone registered "Power On."

On May 9, 2020 at 6:46 AM, Barry's phone was taken out of airplane mode. (Your affiant knows that airplane mode is a setting available on smartphones and other portable devices. When activated, this mode suspends the device's signal transmission technologies like Bluetooth and Wi-Fi, effectively disabling all voice, text and phone services. GPS may or may not be disabled.)

On May 9, 2020, from 7:22 AM to 7:39 AM, Barry's phone registered locations at his "Tailwinds" work site near Poncha Springs. During that time, Suzanne's phone exchanged messages with her friend, Sheila Oliver (7:35 AM), and Greg Fisher accepted her Facebook friends request (7:30 AM).[41]

Suzanne's phone was located at the Morphew residence, per CAST (Cellular Analysis Survey Team) analysis for the entire day of May 9, 2020.

On May 9, 2020, from 9:31 AM to 9:33 AM, Ricky King and Bobby Huff accepted Suzanne's friend requests on Facebook.[42] Barry's phone continued to receive messages from Suzanne's phone and send messages to her phone while he remained at the CR 105 site until 9:37 AM.

On May 9, 2020, at 9:50 AM, Suzanne's texted Barry, "Want to hike?"

At 10:36 AM, Suzanne texted Barry, "Wanna meet to hike?"

At 10:48 AM Barry responded, "No. I'll come home."

On May 9, 2020 at 11:14 AM, Suzanne's phone received a second password reset message from Facebook. Shortly after 11:15 AM, Barry's phone traveled west on HWY 50, arriving at the Morphew residence at around 11:27 AM. Both phones, per CAST, appeared to be at the residence from 11:30 AM through 1:40 PM.

Barry's phone exchanged two messages with "Tim Backhoe" at 1:49 PM and 1:50 PM. Barry also made an outgoing call to Suzanne for two seconds at 1:51 PM (his tenth of eleven consecutive calls to Suzanne).

On May 9, 2020 at 2:26 PM, Barry texted Suzanne, "Done headed back."

At 2:31 PM, Barry texted Suzanne, "Did you leave."

By 2:43 PM, Barry's phone and F-350, per telematics, appeared to be at the Morphew residence.

On May 9th, at 2:47 PM, Barry's phone appears to enter Airplane Mode.

---

[41] Fisher told the FBI that he thought Suzanne's Facebook had been "hacked" and he checked her account online upon receiving the request. Fisher said he is a close friend of Gene Moorman, Suzanne's father, and said "it didn't seem like her" to send him the request.

[42] Huff told the FBI that he did not think Suzanne sent the requests, that "she would never see me and 'friend' me."

On May 9th, at 10:17 PM, an "airplane mode off" event started on Barry's phone and the phone was then powered on at 4:32 AM on May 10, 2020. That May 9-10, 2020 night, approximately 210 locations for Barry's phone registered near the Morphew residence, compared to zero-to-two locations on previous nights from May 1st through May 8th.

On May 10, 2020, Barry's phone display came on and his device was unlocked at 3:56 AM.

On May 10, 2020, from 3:25 AM to 3:48 AM, the Ford F-350 registered 0 mph with GPS at Morphew residence as the doors opened and closed multiple times. SA Hoyland noted over eighty (80) events involving the F350 during this timeframe.

The location data for Suzanne's phone last registered with a tower near the Morphew residence at 4:23 AM.

Further events of Barry's phone records are documented under the "Surveillance Video - Broomfield" section.

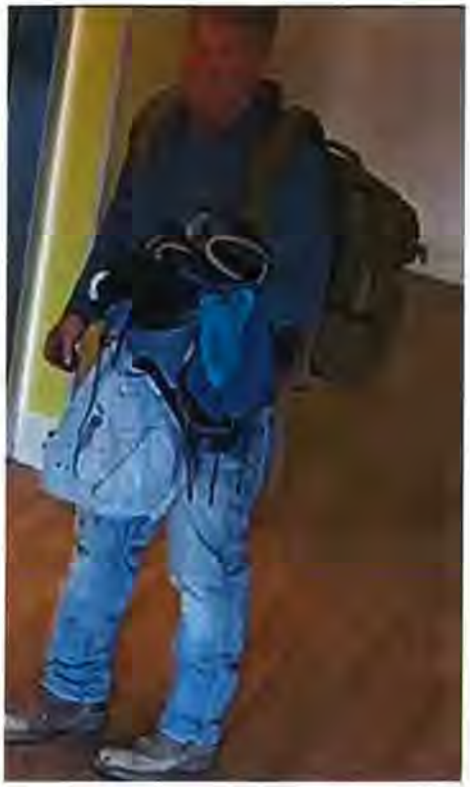
(Broomfield: Surveillance Video, Barry's Ford F-350 and Barry's Phone)

Video footage was collected by the Colorado Bureau of Investigation (CBI) from the Holiday Inn Express, 11401 Via Varra, Broomfield, CO for May 10, 2020. The following timeline of events include the surveillance video, telematics of Barry's truck and his phone activities to provide his actions on May 10th:

At 8:14 AM, Barry's phone was at the Holiday Inn Express, 11401 Via Varra, Broomfield, CO.

At 8:41 AM, Barry texted Suzanne, "I made it to Broomfield call me when you get a chance"

At 8:46 AM, Barry walked into the hotel carrying two white trash bags a khaki backpack, a pair of boots, a dark-colored item and a piece of clothing with blue-teal coloring.



At 10:06 AM, Barry exited his hotel room; he was carrying the charcoal long-sleeved shirt and two white bags and a pair of boots.

At 10:20 AM, the location of Barry's phone was near the lot of McDonald's, 625 Interlocken Blvd., Broomfield, CO. At 10:22 AM, the driver door of the F-350 opened in the rear parking space of the same McDonald's lot. (Truck telematics)

Barry is seen on video, provided to CBI from the 1st National Bank, 615 Interlocken Blvd., located adjacent to the McDonald's lot. He is carrying unknown items in his hands and placing items into two separate trash cans located on the edge of the McDonald's lot between 10:19 AM and 10:41 AM. (Per CBI, no time stamps)

From the bank video, Barry exited the truck, walked to a trash can while he held an unknown, smaller object in his left hand and possibly his right hand. He placed something in the can, extended his right arm downward into the can and walked back to the open driver's door.

Barry was oriented towards the inside of the driver's door and the driver's side floor for the next few frames; he walked to the same trash can, possibly with an item in his right hand, extended his right arm into the can, then placed both hands and arms into the can.

Barry returned to the truck, oriented to the inner portion of the driver's side door. After a few frames, he turned with his hands together and walked to a trash can across the lot. He returned to his truck and drove away.[43]

From 10:47 AM to 11:18 AM, the location of Barry's phone was in or beside the lot of Men's Wearhouse, 160 E Flatiron Crossing Drive, Broomfield, CO. From 10:50 AM to 11:17 AM, the driver and passenger doors of the F-350 were opened and closed at least seven times in the parking lot near Men's Wearhouse, 160 E Flatiron Crossing Dr, Broomfield.[44]

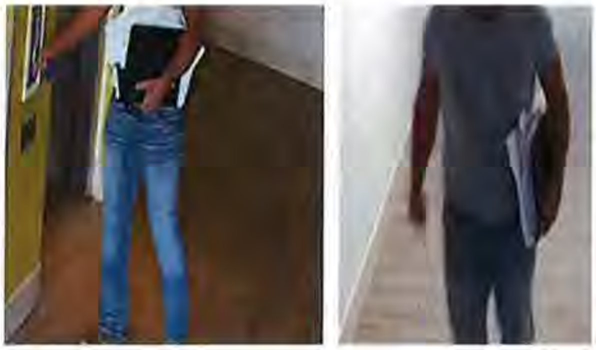
At 11:23AM, the locations of Barry's phone and truck were at the Holiday Inn Express.

At 11:36 AM, Barry walked into the hotel lobby, wearing a black t-shirt, carrying under his left arm a black binder and disorganized papers. At 11:56 AM, Barry exited his room, wearing a white shirt and carrying the binder with the papers (right photo). He walked to his truck at 11:57 AM.[45]

---

[43] On April 22, 2021, FBI Agents showed Barry these photos.

[44] In March and April 2021, FBI Agents showed Barry overhead photos of this site and "could not recall" why he was there or what he threw away.



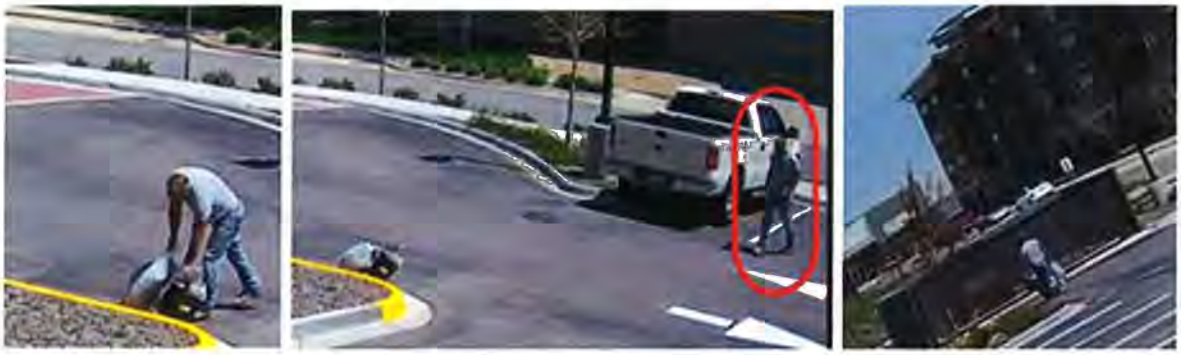
From 11:57 AM to 12:25 PM, Barry's phone was near the Via Varra work site for the wall.

At 12:06 PM, Barry made an outgoing call to Mallory.

From 12:28 PM to 12:29 PM, the location of Barry's phone was at the Holiday Inn Express (Telematics of F-350 also registered the driver door opening and closing multiple times in the hotel lot).

At 12:36 PM, Barry arrived at the hotel parking lot in his truck. He got out of the truck and carried one white trash bag, larger in size than the previous bags in one hand; in the other hand he carried a black container, along with a green item, possibly a piece of clothing.

At 12:38 PM, Barry placed bags, a black container and clothing from his truck beside the curb near the hotel lobby (see photos below). He then walked to his truck, appeared to pick up a small item from inside, picked up the trash bag, coat and container and walked towards the dumpsters at the end of the lot.



At 12:41 PM, Barry walked back across the lot towards the hotel lobby with nothing in his hands.

At 12:42 PM, Barry entered his hotel room. Barry does not leave his room, per the film, until 6:03 PM.[46]

---

[45] The first photo depicts Barry walking toward his room, the second is him walking away approximately 19 minutes later, wearing a different shirt. He provided varying statements to CBI and FBI about these photos.

[46] On April 22, 2021, FBI Agents asked Barry why he did not park near the dumpster to throw away these items and he said he did not recall. In March 2021, Agents showed Barry photos of him carrying a camouflage coat, a black tree container and a bag across the hotel lot and asked him what items were in the bag and why he was throwing those items away. He did not provide details and could not recall the items.

At 3:30 PM, Barry sent an outgoing message to Suzanne "Call me"

At 5:15 PM, Barry received an incoming call from Jeanne Ritter.

At 5:45 PM, Barry received another incoming call from Jeanne and Martin Ritter.

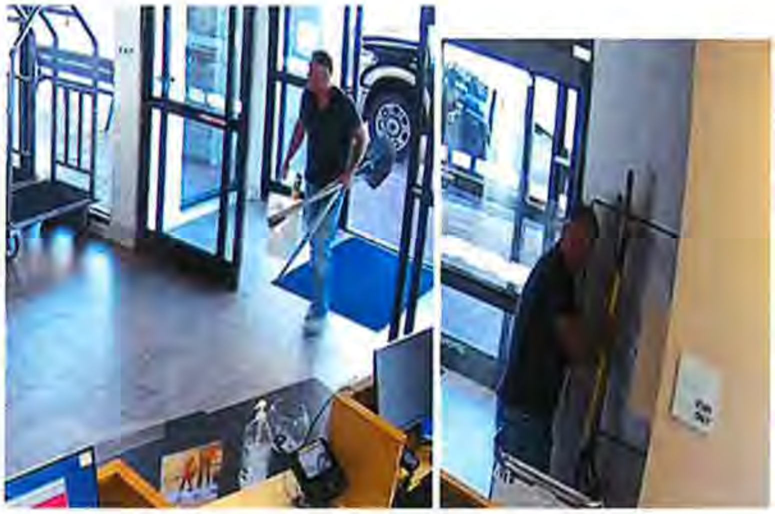
At 5:57 PM, the telematics of the F-350 registered GPS coordinates at the Holiday Inn parking lot. (The previous GPS coordinates for the F-350 registered at 12:28 PM).

At 6:03 PM, Barry exited his hotel room, wearing a black shirt with his khaki backpack on his back.

At 6:05 PM, Barry made an outgoing call to Martin Ritter.

At 6:06 PM, Barry pulled his truck in front of the hotel and walked into the lobby before walking back out of the lobby at 6:08 PM. At 6:09 PM, Barry made an outgoing call to Morgan Gentile.

At 6:10 PM, Barry entered the lobby carrying two shovels and placed them beside the front desk. He made subsequent trips, placing more tools in the same spot.



At 6:12 PM, Barry left the hotel lot in his truck.

At 6:20 PM, Barry made an outgoing call to Mallory.

At 7:10 PM, Barry received an incoming call from (719) 221-0116 (Chaffee County Sheriff's Office).

At 7:21 PM, Barry made an outgoing call to Suzanne.[47]

At 7:33 PM, CCSO dispatch called Barry and informed in a 1:32-minute call that Suzanne's bike was found. When asked to describe the bike, Barry did not know the make but said it was "blue with colorful petals." Barry started crying and asked, "They found a bike?" He said he was heading that way and asked, "Did they, did they find the phone?" [48]

---

[47] This call to Suzanne was his first outgoing communication to her after learning she was possibly missing, following the 5:15 PM call from the Ritters. Barry made no independent effort to determine whether she was simply not answering her phone due to poor cell service before he abandoned his work project, staged the tools in the lobby and left town. The call was not answered; the location of Barry's phone was on HWY 285, approximately 75 miles from Broomfield.

At about 10:30 PM, Morgan Gentile arrived at the Holiday Inn Express and checked into Barry's room.

(Returns for Suzanne's Phone and iCloud accounts)

On May 28, 2020, Apple Inc. returned records pursuant to a search warrant for Suzanne's account for email "suzmorph@gmail.com" that was associated with an Apple account created on January 16, 2019. This account also listed Suzanne's name, address, and phone number. Apple provides a separate identifier known as a "person_ID" which is understood to be unique to an individual subscriber. In those same Apple records, that person_ID associated with Suzanne logged multiple updates to applications through the iTunes store, including for both LinkedIn and WhatsApp applications. This indicates that Suzanne had WhatsApp and LinkedIn installed on her device through May 9, 2020 when the last update was logged for each.

(Suzanne's Verizon Return)

Per location coordinates received from the search warrants served on Suzanne's Verizon account, SA Grusing determined that she traveled to Florida, staying in various hotels in Naples and Marco Island between January 31, 2020 and February 16, 2020. She communicated primarily with Sheila Oliver, Barry, Gene Moorman and Curt Sigler.

On May 5, 2020, Suzanne's texts and locations confirmed her trip to Gunnison to drop off Macy, so that Macy, Mallory and Holly Booten could travel together.

On May 6, 2020, at 8:44 AM, Suzanne sent Macy a text, "Good morning! I miss you already!" Her next message was to Barry at 10:13 AM, stating, "I'm done. I could care less what you're up to and have been for years. We just need to figure this out civilly." (Deleted from Barry's phone)

On May 6, 2020 from 2:43 PM to 5:00 PM, Barry sent her the suicide texts which he deleted from his phone.

On May 7, 2020, Suzanne sent Macy videos of the cat, Lulu, from inside the Morphew house and exchanged messages with her.

On May 7, 2020 at 4:43 PM, Suzanne messaged Barry, "Been studying all afternoon. I'm gonna bike now. I've got veggie soup on for supper."

On May 8, 2020 at 7:02 AM, Suzanne's "Notes" folder was last backed up, wherein she articulated over fifty grievances against Barry, one of which refers to Barry accusing her on May 6 of having a boyfriend.

On May 8, 2020 at 8:43 AM, Suzanne sent Barry the message, "Sorry I forgot about Rob Mezzell last night. But I will continue to do your invoicing when you need to."[49]

On May 8th, from 9:01 AM to 9:28 AM, Suzanne messaged Melinda Baumunk, "It's hard dealing with the harsh abrasive ness and having to show respect. He's also been abusive, emotionally and physically."

(Suzanne's Instagram Account)

---

[48] Investigators noted that Barry did not ask if Suzanne was found, but he asked about "the" phone.

[49] This text of Suzanne's offer to "continue to do your invoicing" follows her May 6th text request to "handle this civilly" and her numerous attempts to separate from Barry. Her subsequent text to her sister, Melinda, indicates she let the mistreatment continue for too long and she was moving in a different direction. When FBI Agents showed Barry these texts during interviews in 2021, he said he did not think Suzanne was serious.

SA Grusing interviewed Robin Binford, a friend of Suzanne's from Indiana, on June 30, 2020. Binford has known Suzanne Morphew since middle school and was her close friend through high school. She and Suzanne have consistently communicated through Facebook and Instagram over the years. Binford stated that she had some problems with the way Suzanne supposedly went missing based upon Suzanne's normal routines.

On the Saturday before the weekend Suzanne went missing, she posted an Instagram Story video about her and Mallory, stating that Mallory always surprised her.

Suzanne used the Instagram Story to take photos to document each of her bike rides. Binford said that upon hearing that Suzanne went missing, she checked Instagram and found that Suzanne did not post anything about the ride. Binford knew that Suzanne was still grieving over losing her mother within the past two years or so and that Mother's Day was going to be a difficult day for her. Binford did not think that Suzanne would choose to spend that day without her girls and husband.

From a review of Suzanne Morphew's Instagram account (obtained through a search warrant in the state of Colorado), the attached pictures of her often in biking outfits were located with the dates:

05/06/2020 4:30 PM (MST) with location "Little Rainbow Trail"

04/27/2020 4:36 PM (MST) with location "Mount Shavano"

04/20/2020 2:18 PM (MST) with location of Methodist Mountain and captions "First single track!" and "Broke my first chain (smiling emoji)

MOUNT SHAVAN
LITTLE RAINBOW TRAIL
METHODIST MOUNTAIN

(Search Warrant – Macy's Phone)

Per the Verizon warrant served on Macy's cell phone, the following message was sent from Macy to Miles Harvey on May 10, 2020 at 3:50 PM (over an hour before Martin Ritter reported her missing):

"I'm just so sad and Mal and I texted mom for Mother's Day and she still hasn't answered and I'm scared her and dad probably got in a big fight and I don't even know it just made me want to be gone even more because I don't want to be around them it hurts me and I know if Mal is working I might have to be home a lot more and it'll probably be the worst summer of my life."

(Scratches on Barry's Arm)

On May 13, 2020, CCSO Deputy Carricato took photos of scratches on Barry's left arm.

(K-9 search on May 23, 2020)

On May 23, 2020, search teams along with K-9s and K-9 handlers (Blood Hound Man Trackers NecroSearch) searched the 19507 Puma Path property. During this search, three different K-9s were used. Each of the three K-9s were ran blindly and individually during the search. On the west area of the driveway/parking area, where a flatbed trailer and Bobcat Skid Steer are parked, all three K-9s "trained final response" alerted (the K-9s used have been trained in a specific way to alert their handlers when they detect possible human decomp/remains) on the top of the trailer. It should be noted, on the bed of the trailer there is gravel and dirt. This is an area the K-9s alerted. All three K-9s again alerted on the Bobcat, and one of the K-9s jumped into the Bobcat and tried to lay down on the driver's seat. The Bobcat located on the Morphew's property is identified as a 2018 Bobcat Compact Skid Steer, Model# S590 and product identification number AR9R18813. The flatbed trailer and Bobcat Skid Steer are parked directly next to each other.

**(Bobcat SIM removal)**

On May 28, 2020, Deputy Randy Carricato with the assistance of FBI SA David Donati removed the SIM card (Subscriber Identity Module) from the Cal/Amp device. This is the device Agent Graham learned about that Barry had on his Bobcat Skid Steer. This device utilizes Verizonconnect services and is a GPS tracking device. SA Hoyland spoke with SA Donati and requested a search warrant be applied for to obtain what data this SIM card may contain. At present, Barry's use of the Bobcat does not appear to be connected to Suzanne's disappearance.

**(Bank Accounts)**

On May 20, 2020, your affiant served search warrants to Equifax and Trans Union to identify what credit accounts Suzanne and Barry would have currently and/or at the time frame of Suzanne's disappearance. This information was necessary to establish a pattern of life for both Suzanne and Barry as well as proof of life for Suzanne.

On May 28, 2020, Equifax and Trans Union provided the following are open and active accounts for Suzanne and Barry:

1. Indiana Members Credit Union
2. Capital One/Cabela's
3. Discover
4. Comenity Bank/Victoria's Secret
5. Fifth Third Bank
6. Credit One

Your affiant has served warrants on these accounts and the results are being compiled and analyzed by the FBI and a private forensic accountant.

**(Indiana Members Credit Union)**

On June 6, 2020, your affiant served, via email a search warrant to Indiana Members Credit Union requesting banking records for the Morphew's.

On June 9, 2020, your affiant received, via email from Deborah Marrelli, Loss Prevention Manager, the requested records for the Morphew's account. With the records, there is documentation that on June 5, 2020, Barry called the bank and requested his email address be changed from "srmorphew@aol.com" to "barryleemorphew@gmail.com.

**(Collegiate Peaks Bank)**

Per search warrant served by your affiant on Collegiate Peaks Bank, on May 26, 2020, Barry withdrew $5,846.22 in the Suzanne Morphew Foundation account, which brought the balance to $0.00. The account was opened on March 5, 2020 with a deposit of $5,880.00.

**(Possible Second Device for Barry)**

On June 11, 2020, your affiant received information from FBI SA Grusing and Computer Scientist Brian Turner that while reviewing the data from the cell phone extraction of Barry's iPhone, they found a second device, User ID: 2BD073C4-EFD5-413C-92AC-351DD5B43C11, identifier: +13179952426, was associated with Barry's iPhone with an SMS at 03:43:44 PM MST on May 8th, 2020.

This user ID is separate from the primary User ID: D2AAE6DB-8F77-4583-B5D4-B966F3D23F70, identifier: +13179952426.

This second device was first used on November 30, 2019 and was associated with Barry's iPhone 91 times since then, compared to 1,701 associations with the primary User ID since November 2019.

Dates this device was associated with Barry's iPhone since May 5, 2020:

05/05/2020 12:48:34 PM (UTC-6)
05/10/2020 08:47:28 AM (UTC -6)
05/10/2020 11:50:52 AM (UTC -6)
05/11/2020 07:54:50 AM (UTC -6)
05/11/2020 08:14:29 AM (UTC -6)
05/11/2020 05:44;42 PM (UTC -6)
05/12/2020 05:58:11 PM (UTC -6)

As of this present date, this second device has not been identified.

**(FBI Proof of Life/Fugitive Searches)**

Per the request of FBI SA Grusing, with the assistance of the FBI Safe Streets Task Force, the following searches were done through the FBI and its federal partners in attempts to locate Suzanne as if she was a fugitive or missing person:

On August 26, 2020, Agent Brian Palmer, Homeland Security Investigations (HSI), Denver, Colorado, checked border crossings for: Suzanne R. Morphew or Suzanne R. Moorman, DOB/ 04-30-1971, SSN/ 303-92-2030, and provided the following text:

[50]

"I don't have any land border crossings for her. The last travel I have was her returning from San Jose, Mexico to Dallas, TX on 12/02/2019 on American Airlines flight # 1385."

On August 25, 2020, FBI SA Martin Daniell requested flight information from a national airlines reporting agency and found flights for Suzanne on July 24, 2019, July 28, 2019, August 13, 2019 and August 17, 2019. More flights were located for a Suzanne Moorman in April 2020, but this person did not appear to be identical to Suzanne.

On August 24, 2020, Patricia T. Elswick, Technical Information Specialist, FBI CJIS Division, Global Law Enforcement Support Section, NCIC Operations and Policy Unit Investigative and Operational Assistance Group, provided emails of the off-line records checks for any law enforcement queries of Suzanne. The spreadsheets provided multiple queries from Chaffee County sheriff's Office (CCSO) and the Colorado Bureau of Investigation (CBI) from May 10-12, 2020. SHP Cheyenne, (307) 777-4321, queried her on May 13, 2020 and Loveland PD, (970) 667-2151, queried her once on May 14, 2020, both during the widespread news stories. Besides other CCSO, CBI and FBI queries from the Colorado offices in June and July 2020, the Okeechobee Sheriff's Office in Florida queried "Susan Morphew, DOB 04/30/1971" three times on July 10, 2020.

On August 25, 2020, SA Grusing spoke with the dispatch operator, Joanne, for Okeechobee Sheriff's Office, and learned that the CBI requested a welfare check for Suzanne Morphew because of the Okeechobee address for her father, Gene Moorman. Suzanne was not located. Wyoming State Highway Patrol dispatch and Loveland PD dispatch confirmed to SA Grusing on September 1, 2020 that they had no contact with Suzanne but were simply running an "attempt to locate" based upon CCSO's entry.

On August 25, 2020, FBI Operation Support Technician (OST) Dana Plumhoff provided the following checks, per the request of SA Grusing:

"Nothing of significance in Suzanne's CLEAR report. No activity seen tied to her since 2019.

---

[50] This photo of Suzanne was used for the FBI requests sent to HSI and other entities named in this section.

Suzanne R. Morphew Hope Foundation was first filed in Indiana in 2012. It was registered as a Nonprofit with Colorado Secretary of State on February 21, 2020 by Barry Morphew, at 19057 Puma Path, Salida, CO."

OST Plumhoff further noted that as of May 11, 2020, CCSO entered Suzanne as a missing person in the National Crime Information Center (NCIC) database.

For checks in Accurint, nothing significant was found by OST Plumhoff for Suzanne besides her ties to the Puma Path address in Salida as of May of 2020. No electric or utilities were found in her name, her social security number has not being used since May 2020, no new physical addresses or P.O. Boxes for her name or social security number were located, nor were any liens, judgements or loans accrued under her name.

On August 26, 2020, FBI SOS KellyRose Olson requested a nationwide Facial Analysis, Comparison and Evaluation (FACE) Services search for Suzanne Morphew, using the photo above. This service, through the FBI's Criminal Justice Information Services (CJIS) system, compares the photo of Suzanne to the issuances of Visas and Passports, driver's license photos from eighteen states and the Department of Defense (DoD) Automated Biometric Identification System (ABIS). To date, none of these databases have provided any biometrics that match those of Suzanne.

For checks in the internal FBI database, several financial-related results on Suzanne and Barry were referenced from 2013 to 2018. It appears they had access to large amounts of cash; the reporting parties were concerned about money structuring. On June 24, 2020, Barry made a $20,000 deposit at Collegiate Peaks Bank in Salida on Suzanne's behalf. He has a history of making large cash deposits and wire transfers.

These same checks for Suzanne's proof of life were conducted in March 2021 by the FBI with the same negative results.

**(CBI Laboratory Results)**

On June 3, 2020, the CBI Laboratory, hereafter CBI Lab, provided the results of DNA analysis for the CCSO case 20000911. Sixty-five evidence items, to include DNA buccal swabs from the Morphew family members, Andrew Moorman, Miles Harvey and others were listed. Of note, no workable DNA was recovered from the Bobcat blade, the PNUE-DART box or the dryer.

On August 31, 2020, SA Grusing reviewed the Lab results with CBI Lab Forensic Scientist Caitlin Rogers to discuss results relevant to this affidavit. The following items were noted:

The DNA on the bicycle seat (Item 5.1) included a mixture of four people: Suzanne being the primary, with Barry and one of the responding CCSO personnel (Carricato) being included. The fourth male is unknown.[51]

The DNA on the bicycle grips (Item 6.1) included a DNA mixture of four people: Suzanne and Sgt. Mullenax being primary contributors. Barry was excluded as a contributor.

The DNA on the bicycle brakes and handlebars (Item 7.1) included a mixture of four people: Suzanne, Deputy Brown and Deputy Himschoot were primary contributors. Barry was excluded.

---

[51] This mixture is at least 12 decillion (10^33) times more likely to be observed if it originated from Barry MORPHEW, CARRICATO, Suzanne MORPHEW, and an unknown, unrelated individual than if it originated from Suzanne MORPHEW and three unknown, unrelated individuals [very strong support].

The front driver door (Item 25.1) of the 2015 white Land Rover (license plate CSU581) was tested and the DNA was consistent with samples from Barry and Suzanne. Mallory and Macy were excluded.[52]

A plastic hypodermic cover (Item 41), collected from the dryer, was tested by CBI for DNA. A low-level partial DNA mixture of two people was recovered, with Suzanne and Macy being possible contributors. Barry was excluded as a contributor.

A dart needle (Item 44.1), collected by CCSO, submitted as "dart from box in garage," was swabbed and a partial DNA profile was developed, with Barry included as the contributor with "moderate" support.

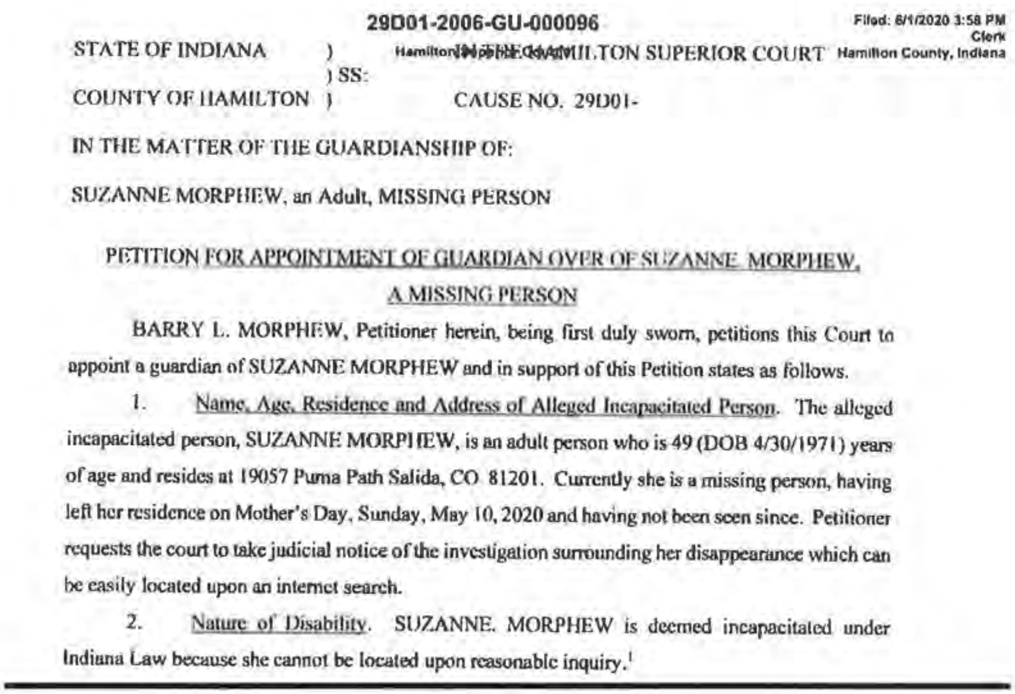
The dart body (Item 44.2), collected by CCSO, submitted as "dart from box in garage" was swabbed and a low-level DNA profile referenced that Mallory could have been a contributor.

The interior cushions of the helmet (Item 49.2) were tested for DNA and a partial profile was developed. The mixture was more likely to involve Barry and Suzanne that coming from anyone else by a factor of 6.2 times.

**(Barry's Liquidation of Assets)**

Within a month of Suzanne's disappearance, Barry began to liquidate their assets.

On June 1, 2020, Barry petitioned for guardianship in Hamilton County, Indiana, of Suzanne for him to act as her guardian. This filing allowed Barry to sign documents on Suzanne's behalf and sell their residences in Indiana and Colorado. Mallory Morphew filed consent for the guardianship. Below are some screen shots of the court documents.



29D01-2006-GU-000096

Filed: 6/1/2020 3:58 PM
Clerk
Hamilton County, Indiana

STATE OF INDIANA )
) SS:
COUNTY OF HAMILTON )

Hamilton [illegible] IN THE HAMILTON SUPERIOR COURT

CAUSE NO. 29D01-

IN THE MATTER OF THE GUARDIANSHIP OF:

SUZANNE MORPHEW, an Adult, MISSING PERSON

PETITION FOR APPOINTMENT OF GUARDIAN OVER OF SUZANNE MORPHEW, A MISSING PERSON

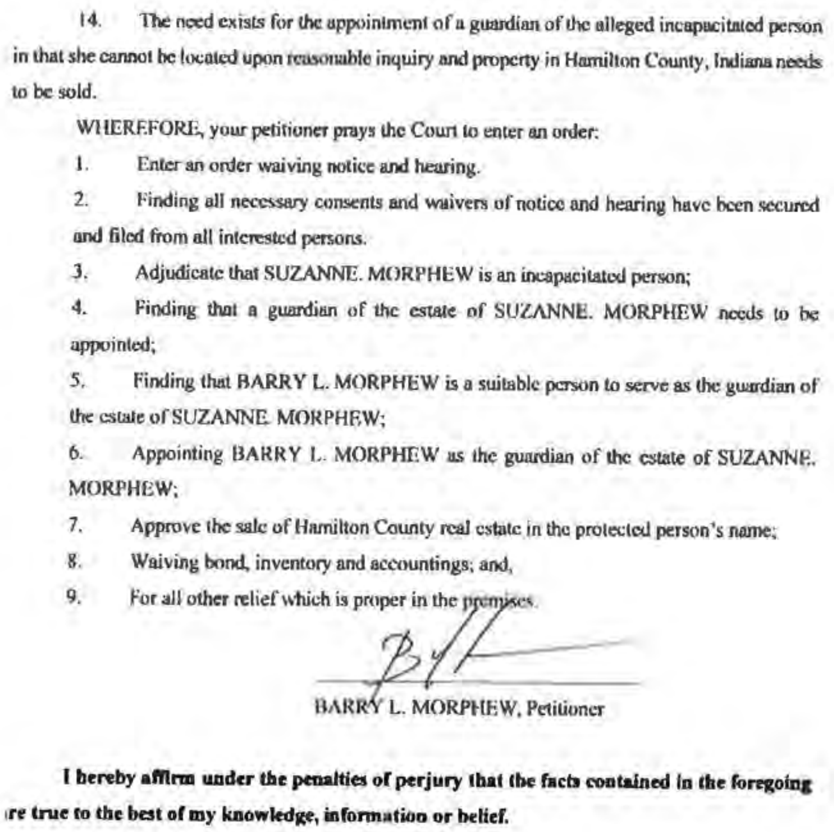
BARRY L. MORPHEW, Petitioner herein, being first duly sworn, petitions this Court to appoint a guardian of SUZANNE MORPHEW and in support of this Petition states as follows.

1. Name, Age, Residence and Address of Alleged Incapacitated Person. The alleged incapacitated person, SUZANNE MORPHEW, is an adult person who is 49 (DOB 4/30/1971) years of age and resides at 19057 Puma Path Salida, CO 81201. Currently she is a missing person, having left her residence on Mother's Day, Sunday, May 10, 2020 and having not been seen since. Petitioner requests the court to take judicial notice of the investigation surrounding her disappearance which can be easily located upon an internet search.

2. Nature of Disability. SUZANNE MORPHEW is deemed incapacitated under Indiana Law because she cannot be located upon reasonable inquiry.[1]

---

[52] This mixture is at least 40 sexdecillion (10^51) times more likely to be observed if it originated from Barry MORPHEW and Suzanne MORPHEW than if it originated from two unknown, unrelated individuals [very strong support].



14. The need exists for the appointment of a guardian of the alleged incapacitated person in that she cannot be located upon reasonable inquiry and property in Hamilton County, Indiana needs to be sold.

WHEREFORE, your petitioner prays the Court to enter an order:

1. Enter an order waiving notice and hearing.
2. Finding all necessary consents and waivers of notice and hearing have been secured and filed from all interested persons.
3. Adjudicate that SUZANNE. MORPHEW is an incapacitated person;
4. Finding that a guardian of the estate of SUZANNE. MORPHEW needs to be appointed;
5. Finding that BARRY L. MORPHEW is a suitable person to serve as the guardian of the estate of SUZANNE. MORPHEW;
6. Appointing BARRY L. MORPHEW as the guardian of the estate of SUZANNE. MORPHEW;
7. Approve the sale of Hamilton County real estate in the protected person's name;
8. Waiving bond, inventory and accountings; and,
9. For all other relief which is proper in the premises.

BARRY L. MORPHEW, Petitioner

**I hereby affirm under the penalties of perjury that the facts contained in the foregoing re true to the best of my knowledge, information or belief.**

On June 6, 2020, Barry closed on the 26040 Cal Carson Road, Arcadia, Indiana property, with a closing price of $750,000.

Your affiant served Bank of the West a search warrant for accounts associated to Barry and Suzanne Morphew. For an account of Mallory and Barry Morphew (# 050-477017), there is a deposit dated February 24, 2020 for $40,000 from Monex.[53] On June 19, 2020, there is a check written to Barry Morphew, the signer appears to be Mallory Morphew in the amount of $30,000.

On July 1, 2020, Kent Townsend told your affiant that on June 25, 2020, Barry paid $160,000 for the Lot 8 property at Longhorn Ranch in Salida. Barry sold this back to Townsend on February 17, 2021 for $150,000.

On July 13, 2020, Barry initiated a title change for Suzanne's Range Rover, selling it to Troy and Elizabeth Riley of Deputy, Indiana on July 16, 2020.

On March 3, 2021, the Recorder's Office in Salida informed your affiant that they had just received a Special Warranty Deed that 19057 Puma Path had sold to Mountain Renewal, LLC, for $1,625,000.

## SECTION 5: Interviews

### (Morgan Interview May 14, 2020)

---

[53] Suzanne's list of grievances cites a transaction such as this one involving Monex and she mentions one involving Mallory to Libler shortly before she disappears.

On May 14, 2020, Colorado Bureau of Investigation (CBI) Agents Kevin Koback and Joseph Cahill conducted a consensual recorded interview with Morgan Anne Gentile in Salida, Colorado.

Morgan stated that around July 2019, she returned to Salida and started work at Diesslin Structures, Inc. (DSI). She first met Barry through DSI and they have worked together frequently. In January 2020, Morgan was terminated from DSI over allegations she used illegal drugs, though she asserted she did not use drugs. After she was terminated, Barry hired her as a contractor for his company, Sunset Farms Landscaping.

Barry frequently talks to Morgan about his two daughters; he has never spoken of any marital or other family issues.

Barry told Morgan about the Broomfield job sometime in mid-April 2020. Morgan stated the job was supposed to take place between April 23, 2020 and April 30, 2020, however, she was not sure of the exact date. Barry then changed the job to take place on or about the first week of May. Barry then rescheduled the job to begin on May 11, 2020.

Morgan stated on May 8, 2020, Barry picked her up from Anytime Fitness, 9985 HWY 50, Poncha Springs, CO. They traveled to a jobsite at 6962 County Road (CR) 105, Salida. They arrived at around 8:00 AM, completed a "rock beach" project and left. At around 11:00 AM, Barry took her back to her vehicle by Anytime Fitness, paid her in cash for the job, and left. Morgan stated that Barry mentioned he was going to go hiking or biking.

Barry was supposed to pick Morgan up at around 5:30 PM on Sunday, May 10, 2020 to drive to a hotel in Broomfield, CO. Cassidy Cordova was supposed to drive up separately and meet them on Monday, May 11, 2020.

Morgan stated that at around 4:00 AM on May 10, 2020, she was confident she heard Barry's Ford F-350 drive eastbound past her house on HWY 50. Morgan stated she did not see the truck but that his truck has a very distinctive exhaust.

At about 11:18 AM on May 10, 2020, Barry called Morgan and explained she needed to bring an additional person because of the amount of work needed to repair the wall. She agreed she would bring another contractor, Jeff Puckett. Barry never provided an explanation why he left early or why he did not pick her up.

Morgan stated she later picked up Jeff and drove towards Broomfield. At about 6:09 PM, Barry called and said he had a "family emergency" and had to return to Salida. Barry had left tools at the hotel and said he would call her the next day.

On May 11, 2020, at about 7:00 AM, Barry called Morgan and said that Suzanne was missing and he thought a mountain lion may have attacked her. Morgan explained that Barry was initially crying but then abruptly shifted to the specifics about the Broomfield job.

Morgan adamantly denied there was ever any type of sexual relationship between her and Barry.

**(Jeffrey Puckett Interview)**

On May 14, 2020, Investigator Richard Wren interviewed Jeff Puckett. Puckett was one of the workers who was supposed to meet Barry Morphew in Broomfield on May 10, 2020 to complete a landscape job. Puckett stated that he was contacted by Morgan on Sunday, May 10th to see if he wanted to go to Denver to work on a job for Barry. After being asked by Morgan, Puckett contacted Barry directly. Puckett had no knowledge of the job until he was contacted by Morgan. On Monday, Puckett and Morgan met up with Cassidy Cordova, who was helping them with the job.

**(Cassidy Cordova Interview)**

On May 14, 2020, Investigator Richard Wren interviewed Cassidy Cordova. Cordova advised he had contact with Barry Morphew early on the week of May 4th and Barry mentioned that he may need Cordova to help with a job in Denver next week. Barry said that he would get back with Cordova later if he was for sure needed. On May 10th, Cordova had not heard from Barry, so he called him at about 1:45 PM to ask about the job. Barry asked Cordova to help with the job since he (Cordova) was already in Colorado Springs. Cordova met the rest of the crew in Denver on Monday morning.

Cordova advised he has known Barry for about two years because they worked together at DSI. Cordova advised that Cody Cox had an issue with Barry over Barry firing him. Cox had been working for Morphew also.

**(Cody Cox Interview)**

On May 14, 2020, Investigator Richard Wren interviewed Cody. Cox worked with Barry and for Barry's landscape business. Cox and Cordova did a landscape job in Broomfield between August of 2019 and December 2019. The general contractor did not like the job and it had to be repaired several times. After the last attempt to fix the wall, Cox refused to go back to Denver to fix the wall. Barry fired Cox. At the same time, Cox was given the ultimatum to leave DSI or be fired because of a hot urinalysis test. Cox left DSI. Cox advised that this all happened around the end of December 2019.

Cox was asked about the information that he wanted to "kick Barry's ass." Cox advised that rumor was started by Jeff Puckett. Cox said that he was not happy about getting fired but was not going around saying he wanted to fight Barry.

Cox advised he had met Suzanne and talked about how she had brought cookies to his kids. He described Suzanne as a very nice lady. He denied having done anything to Suzanne and denied knowing what happened to Suzanne. Cox advised that Barry never talked bad about his (Barry's) relationship with Suzanne.

During a subsequent interview on May 22, 2020, Cox stated he does not recall ever telling Puckett he wanted to beat up Barry.

**(Second Sheila Oliver Interview)**

On May 14, 2020, Sheila Oliver was interviewed by FBI Agent William Rowell. Sheila said that she first met Suzanne when they were roommates and students together at Purdue University, West Lafayette, IN, about 1990. Suzanne married Barry in August 1994. Both families have children in the same age ranges and have raised their kids closely. About two years ago, the Morphew's daughter Mallory went to college in Colorado, Western State College, in Gunnison. The Morphew's then moved to Colorado in 2018. They didn't have their home sold in Indiana before they left. The move seemed to be in a rush.

Barry was domineering in the marriage with Suzanne. He would tell her she had to change in order for them to get along. Money was a big issue between them. Barry was very controlling with money. He insisted Suzanne use cash, but he would charge hunting equipment on his credit card. He invested in the silver market, and then it bottomed out. Suzanne did not stand up for herself, until recently. The marriage had become very rocky by 2018. There was hope a move to Colorado, making a new start, would help things. There was never a definite reason for Mallory going to college in Colorado, and the family moving there. Suzanne thought it would be nice for them to live near Mallory, though.

Suzanne came back to visit Sheila twice from Colorado. Once was Thanksgiving 2018, while the Morphew's were still trying to sell their house in Indiana. While Suzanne was at the Oliver's house, she had stepped away from her cell phone to use the restroom, and Barry tried calling her several times within a few minutes, then tried calling Sheila, then tried calling Darin. He was persistent and obsessive about knowing where she was, at least when she was with Sheila. The other time was June/July 2019, when Suzanne returned to Indiana to visit Sheila, and then went to Michigan to visit her dad. Barry called Sheila saying he couldn't get in touch with Suzanne. Suzanne told Sheila this was odd, because Barry never bothered to call Suzanne any other times. He was just very persistent in checking up on Suzanne when she was with Sheila.[54]

The Oliver's daughter Hanna was married on Sunday, May 10, 2020. Hanna was like a daughter to Suzanne. The wedding was originally going to include many people, and Suzanne was going to attend; but due to Covid-19 restrictions, it was limited to immediate family, and was livestreamed online. Suzanne was going to watch it; she would not have missed it for the world. On Saturday, May 9, 2020, Sheila sent two Snaps to Suzanne in the morning, which were opened. Later in the day/evening, Sheila sent three more Snaps to Suzanne which were never opened/received, as reflected on Sheila's cell phone.

Sheila stated, "There is a zero percent chance" that Suzanne would run off, and not at least tell one of her daughters or Sheila. If she had left Barry, she would have contacted one of her daughters or Sheila to let them know what was going on. Suzanne would not commit suicide. Her religious beliefs would not allow her to do this.

Sheila said Suzanne suspected Barry had an extramarital affair based on Barry's behavior, which included him turning his phone off at times, not being where he said he would be, always secretive, and not honest with Suzanne. He had to travel back to Hamilton County Indiana for some type of legal proceeding, at least once, but maybe more. Suzanne had given up asking him why because he wouldn't tell her.

As Suzanne's suspicions were aroused over the last few years, she wanted to find out what her husband was up to. She wanted to buy a spy pen, to find out what he was doing, but was afraid of Barry's reaction if he found out. Suzanne asked Sheila to buy the pen for her on the internet. Sheila did this and gave the pen to Suzanne while they were on vacation together in Florida a few months ago, around February 2020.

**(George Davis Interview)**

On May 15, 2020, CBI Agents Graham and Cahill interviewed George Davis, who stated he has known Barry for approximately a year and a half. George stated he has not noticed any recent changes in Barry's behavior. George explained that he and Barry work out together; usually five days a week. Once the COVID-19 restrictions closed the gym, they began working out at George's residence. George explained Barry typically comes over to work out somewhere between 1700 to 1900 hours. George stated he and Barry hunt together and work at the same fire station (Number 5).

George stated he last physically saw Barry either Thursday or Friday when they worked out at his house. George explained since he works one week on, one off, he believed they may have worked out earlier; around 4:00 PM.

George stated Barry has never confided in him about any type of martial problems. George stated Barry loves his children and his relationship with Suzanne seemed normal. George explained he and his wife, Lindsay Davis, have gone on several "dates" with Barry and Suzanne.

George stated on Sunday, May 10, 2020, he was at his residence when he received a phone call from CCFDD Lt. Tim Nelson, who informed him a bike was located over an embankment by Barry's house. George stated he turned on his fire radio and called Barry. Barry stated he was just outside Buena Vista on his way back. George believed he called Barry between 5:30 PM to 6:00 PM.

---

[54] This June 2019 visit to Michigan was consistent with Suzanne meeting Jeff Libler and Barry suspecting she was having an affair, thus his calls to Sheila.

George stated he responded to the area where Suzanne's bike was found. When he arrived, he noted the bike had been moved onto the road near a sheriff's vehicle. While still at the scene of the bike, George stated Barry arrived in his black Ford F-350. Barry was wearing jeans and possibly a "red/orange flannel" shirt.

George had conversations with CBI and the FBI about his observations and conclusions that an abduction had taken place with a "staged" scene.

**(Morgan Gentile Interview - May 15th)**

On May 15, 2020, CBI Agents Cahill and Koback contacted Morgan at her residence in Salida. Morgan spoke about conversations that George Davis had with her in which George might be attempting to influence her future testimony.

Morgan stated that she had recalled some additional detail about the hotel in Bromfield. Morgan explained after she and Jeff Puckett checked in, they went to their rooms. Jeff went to Room #225, the one originally rented and used by Barry, and she went to Room #228.

Morgan explained that Jeff could not figure out how to open the hotel room door, so she opened it. Morgan explained when she opened the door, she immediately smelled the strong odor of "chlorine." Morgan stated this was not the ordinary housecleaning odor. It was more consistent with what you'd smell with a pool.

Morgan stated she observed several "damp and used towels" on the floor.

Later, Morgan stated that Jeff found an "insurance document" under the pillow. The document was thrown in the trash. She could not recall what was on the document.

When questioned about the job sites on Saturday, May 09, 2020, Morgan stated she recalled an odd comment made by Barry. Morgan explained after they completed the "beach" at the "river house" (6962 CR 105, Salida), she rode with Barry to the next site. Morgan stated she commented pigs could eat an entire human body in two hours. Barry commented that he would be able to "bury a body" and it "would never be found."

We spoke with Morgan about Barry's financial activities. Morgan stated Barry contacted his stock trader "Dan" (heard over the phone with an English-type accent). Morgan stated he spoke to "Dan" on a daily basis.

**(Morgan Timeline to CCSO – July 29th)**

On July 29, 2020, Morgan Gentile provided a handwritten timeline to CCSO Sheriff John Spezze. The following lines were noted by SA Grusing for the affidavit:

For Sunday, May 10th, Morgan wrote that she heard Barry's truck at 5:00 AM.

She added, "11:15 Barry called he was out of breathe (sic) panting but fatigue, kind a like hungover but he doesn't drink, honestly when I hung up I thought to myself he sounded like he had the worst night of his life."

Morgan provided more details about her trip to the Broomfield hotel, to include her route, on May 10th. She wrote, "Arrived at hotel 10:00 – 10:30, Grabbed Barry's tools, Went to check in."

Morgan wrote that she and Puckett checked in rooms 228 and 225. When Morgan walked in 225, "the smell of chlorine was so strong made my eyes water. I noticed wet towels on the ground in the bathroom and Barry made the bed."

For Monday, May 11th, Morgan wrote that they drove to the job site from the hotel. She indicated, "It looked like Barry had removed top caps that was it. We also did not have the tools we need like a packer or gravel."

**(Interview of John Schmitz)**

On May 16, 2020, CBI Agent Gonzales contacted John Schmitz regarding a message he had left on the Suzanne Morphew tip line.

Schmitz stated that he first met Barry in or about December of 2017, when they were working on the same construction project in Indianapolis. He said that he (Schmitz) is a contractor and Barry was the landscaper assigned to the Mainstreet Shops project. Schmitz stated that at some point during an altercation with Barry, Barry "body bumped" him which prompted Schmitz to grab him in a "head lock" and pin him against a wall, he said that what he recalls the most during that altercation was the "evil" in Barry's eyes. Schmitz said that when he heard about Suzanne, he just had a feeling that it was not good knowing what he does about Barry.

Schmitz stated that in May of 2018, he and Barry were charged with disorderly conduct by the Boone County Sheriff's office for the incident that occurred in December of 2017. He said that the case had been continued until February of 2019, when all charges were dropped.

**(Brad Osswald Interview)**

On May 17, 2020, CBI Agent Koback interviewed Brad Osswald, an Indiana resident and deputy sheriff in Hamilton County. Osswald stated that he has known Barry twenty years and they are good friends. Osswald came to Barry's house in 2019 to hunt in a preserve south of Salida. Osswald knew that Barry got into a fight with another guy in Indiana over the other party not wanting to move scaffolding on a construction site. Osswald described Barry as hardheaded and strong-willed. He added that he was "afraid to say what I think but I think Barry was so pissed off he accidentally killed her." Osswald guessed that Barry and Suzanne were fighting, or she confronted him and that caused him to lose his temper. Osswald said that Barry had all night to plan how to get rid of her.

Barry was "big time" controlling over Suzanne. Osswald said that Barry is very secretive, and he would not talk to anyone if he did do something.

Barry is an excellent skid loader operator and go do incredible things with a skid loader. Osswald said that Barry could have easily buried Suzanne and that Barry is smart enough to turn off his phone or leave it at home.

Osswald stated that Barry is "never wrong." He added that Barry is very prideful and would never confess to killing Suzanne. Osswald believes that Barry would have taken her away from the house if he killed her because she would be too easy to find on the property.

**(Curt Sigler Interview)**

On May 17, 2020, CBI Agent Koback interviewed Curt Sigler, who explained that he has known Barry since Curt was eight or nine years old. Curt stayed with Barry and Suzanne approximately two years ago in Colorado. During that stay, Suzanne told Curt that Barry was cheating on her with a girl from Indiana. Curt hunted with Barry near Buena Vista that year (2018).

On May 11, 2020, Marcie, Barry's sister, called Curt and told him that Suzanne was missing; that Suzanne was riding her bike and a mountain lion got her. The next day, Curt was in Colorado talking to Barry. Curt stated that Suzanne is not suicidal - she would not do that to the girls or Barry. During the interview, Curt made assertions that he did not think Barry was capable of killing Suzanne.

After speaking with Curt on audio recording, Agent Koback walked out the parking lot with him. Curt turned and said, "I think he killed her." Curt further stated Barry's timeline does not make sense: the bike was thrown down the embankment, the stuff found along the road was placed and it was like thrown out when Barry was "driving back." Curtis also said if anyone found out about Barry's infidelity, they would all turn on him. Barry also "burnt many bridges" in Indiana, referring to business deals.

**(Gene Moorman Interview)**

On May 18, 2020, Gene Moorman, Suzanne's father, was interviewed in Mears, Michigan by FBI Agent Lynn Novak. Moorman said that the first time he heard from Barry following Suzanne's disappearance was on Saturday, May 16, 2020. Barry called and sounded distraught, saying that he felt so badly, and the authorities were trying to pin Suzanne's death on him. Barry said that he was interrogated for five hours. Moorman said that he did not find it odd, however, that Barry waited almost a week after Suzanne's disappearance because Barry was very emotional and going through a lot.

Moorman found it odd, though, that neither of his granddaughters or Barry were home on Mother's Day. Barry seldom worked on a Sunday and it was unusual that he would choose to work on the Sunday of Mother's Day.

Suzanne never told Moorman that she and Barry were having marital problems. Moorman believed that Suzanne would have confided in her older sister, Melinda, who lived in Tennessee.

Barry and Suzanne went through stressful times when they had a hard time selling their home in Indiana and struggled to pay for their mortgages in Indiana and Colorado. A little over a year ago, Moorman loaned Barry and Suzanne $100,000. Barry paid Moorman back with a personal check on a quarterly basis and paid off the loan early, approximately three months ago.

The last time Moorman saw Suzanne was approximately two years ago. She met him in Florida for a vacation. Suzanne was by herself and was supposed to stay with Moorman for seven days, but abruptly left after three days to meet her husband on the West Coast. He was upset of her leaving early, however did not tell her how he felt. (Gene Moorman passed away on November 10, 2020)

**(Andrew Moorman)**

On May 18, 2020, CBI Agent Koback interviewed Andrew Moorman, brother of Suzanne. Andrew stated that in Indiana a few years ago, Suzanne found a female's bracelet in Barry's truck and confronted him about having an affair. Barry's sister, Marcie, ended up claiming the bracelet belonged to her. Barry has exceptional hunting skills. Barry told Andrew that his surveillance system at his home has been down for months. Andrew made the statement, "Don't get between Barry and his money."

Following Suzanne's disappearance, Barry told Andrew that Suzanne crashed her bike or was forced off the road. Barry also said he thought a mountain lion dragged her off. Barry used the mountain lion idea for two to three days before the theory changed to someone taking Suzanne; then Barry could not get past the idea that Suzanne was being molested.

Andrew said that Barry is a very good skid loader operator and he could have placed her in a tarp and put her anywhere on his way to Denver. Barry knows how to cover scent by using skunk spray and is an exceptional hunter.

Andrew did not know Suzanne to have ever been an early riser.

**(Aaron Blondeau)**

On May 20, 2020, your affiant interviewed Aaron Blondeau. Blondeau is the IT person for the Grace Church in Salida, Colorado. On Sunday morning, May 10, 2020, the church broadcasted the service live on YouTube. Blondeau is responsible for getting the broadcast setup on the church end and broadcasting it to YouTube. Blondeau advised he could not see who logged into the broadcast.

**(Tim Klco)**

On July 27, 2020, SA Grusing interviewed Tim Klco at his place of business, 58 Jones Avenue, Salida, CO. Klco stated that Dan Thomas, a developer friend of his, told him in September 2019 that if Klco was looking to sell his backhoe attachment for a skid steer, Barry Morphew might buy it. Thomas gave Klco the cell phone number for Barry and Klco traded texts with Barry around September and October 2019. Barry told Klco he was interested in buying the backhoe attachment for the asking price of $5,000 but Barry never met with Klco to complete the deal.

On Saturday, May 9, 2020, Barry again reached out to Klco and said he was interested in buying the backhoe. Klco traded texts and calls with Barry that day and Barry asked via text at 1:46 PM, "Are you around to look at backhoe?" Klco replied at 1:49:29 PM, "No but you can drive by and have a look 58 Jones Ave." Klco does not know if Barry drove by the lot because his surveillance cameras were not functional. Barry sent Klco a text at 1:50:19 PM, "Ok will do. I'll call to discuss," but Barry never called and Klco did not further pursue him. Klco only found out that Barry was the husband of Suzanne Morphew after the case gained publicity.

Klco explained that the backhoe attachment could easily be used to dig a deep hole or trench in a very short amount of time.[55]

**(Timothy Agnew, aka "CBD Tim")**

As cited previously, Barry told CBI on June 17th and June 25th that Tim from Westcliffe might be responsible for Suzanne's disappearance.

Investigators identified Tim as Timothy Agnew, home address 802 CR 305, Westcliffe, CO. Your affiant and SA Grusing contacted Agnew on July 28, 2020 in the presence of his wife, Meagan Agnew. (The Agnews were not advised that the purpose of the interview was centered around the allegations made by Barry that Timothy was a drug dealer who should be considered a suspect in the disappearance and death of Suzanne.)

Timothy advised that he met Suzanne at the farmer's market in Salida in 2018 and Suzanne told him about her battle with cancer. She said that she had lymphoma in her twenties and the cancer was coming back. She was looking for treatment that was non-traditional to buy some time because she was "feeling run down." The Agnews provided four purchase orders from Barry and Suzanne from October 2018 through April 2020 for the hemp oil.

---

[55] In March and April 2021, FBI Agents asked Barry about why he needed a backhoe that particular time and day. FBI Agents learned that before Barry left Indiana in 2018, he used a backhoe to dig a large hole in his front yard, fill it with items to include furniture, and cover it over, planting alfalfa on top. Barry also dug holes to hide large sums of money in Indiana, per his associates and own admissions.

Timothy only spoke to Barry once, when Barry called him in the summer of 2019 and said that Suzanne's lymphoma was back and she "needed more oil." Suzanne interacted with Timothy about five or six times and never gave any indication that she was having to be secretive about taking the oil around Barry or that Barry disapproved of her taking the oil.

**(Karry Woodell)**

On January 11, 2021, SA Harris and SA Grusing interviewed Karry Wooddell in Salida, Colorado. Wooddell met Suzanne at the Exer-flex gym in Salida in the fall of 2018 as they worked out during the same time in the afternoons. Suzanne's workouts were very similar to Wooddell's and Wooddell asked her if she was preparing for a competition. Wooddell began giving massages to Suzanne in March 2019 and continued through September 2019. During the treatments, Suzanne told Wooddell that throughout her marriage, including Indiana, she raised her girls by herself. She and Barry moved to Colorado to slow down, but Barry started working for DSI and was trying to start his own business. Wooddell estimated that Suzanne said Barry traveled to Denver once every week or two in 2019.

Wooddell told Agents that she felt guilty for not accepting Suzanne's invitation in November 2019 to spend more time together. Suzanne approached Wooddell in the gym and asked, "Karry, can we start going out?" She told Wooddell that she needed to start doing things with a friend. Wooddell believes that Suzanne was going to speak with her about Barry's failed attempt a few days earlier to ask Wooddell to start giving him massages.

Wooddell has been doing massages for men and women for about seventeen years. She has worked on numerous wealthy, white men who seem like they have a full life but are missing something. These men, like Barry, are looking to fill that void through church, money, cars, sexual relationships, or other means and cannot seem to find what they are looking for.

Wooddell met Barry in September 2019 during her morning workouts at the gym. She did not know that Barry was married to Suzanne until she saw him sign in on the register one morning. When she saw his name, everything that Suzanne told Wooddell about the problems with her husband "clicked" in Wooddell's mind. Barry was alone during his morning workouts; he watched Wooddell in the gym to the point of making her uncomfortable. She perceived him as a predator with a huge ego. Barry's truck caught her attention because of its size, noise and firefighter plates. Barry was not always working as hard as Suzanne stated, because he was in the gym about four times a week.

Once, Wooddell was working out in the afternoon and she saw Barry walk up to the second floor of the gym. He looked all around the gym until he saw Wooddell. After a while, she walked up to the second floor and he said, "Hi. I'm Barry Morphew. Have a good workout." Wooddell thought her "Dead Men Tell No Tales" T-shirt might have attracted him. She told Barry, "Your wife is a wonderful person."

While Wooddell and a friend, Connie, who is an active member of Grace Church, were eating in the corner patio area of the Boat House restaurant in November 2019, Barry and Macy Morphew sat down a few tables over. He glanced over at Wooddell multiple times, making her uncomfortable. Barry approached her, stretched his back and said words to the effect of, "I'm so happy to see you out tonight. My back is hurting. I'd like to schedule an appointment." Wooddell did not want to give Barry her phone number or give him a massage, so she told him that she did not have her phone with her, and he should schedule through his wife. Wooddell told Agents that she wondered how many other women Barry pursued who did not steer him to talk with his wife.

Wooddell felt Suzanne's request to talk a few days later occurred because Barry has a huge ego, felt rejected by Wooddell and he likely "bashed" her to Suzanne. From the first time Wooddell met Barry, she said it felt like "he was putting his tentacles out."

**(Laura and Andrew Richardson)**

On December 1, 2020, SA Grusing and SA Harris interviewed Lara and Andrew Richardson at their Salida residence. Lara met Suzanne through church in 2018 and heard Suzanne was battling cancer. She approached Suzanne and offered to be her friend, since Suzanne was new to Colorado, away from her family and friends. Lara went to at least three cancer treatments with Suzanne. As Lara and Suzanne got to know each other, Suzanne shared that Barry chose to go to work over going with her to cancer treatments. As Suzanne began to feel better, she was more "fiery," and she traveled out of state without Barry to see her father. When the Richardsons went to the Morphew house for the second dinner, Barry announced that Mallory was a virgin, and there are no other virgins at Western State. The statement was odd to Andrew and Lara for multiple reasons and seemed more like a declaration than conversation.

On May 1, 2020, Lara and Susie celebrated Suzanne's birthday at Lara's house. Suzanne was very healthy and positive as she showed them her mountain bike and talked about Mallory receiving an award at school. She spoke about doing the (financial) books for Barry and how that would serve as a bridge between them. Suzanne also started training online to became certified as an athletic trainer. She was coming out of cancer treatment and felt like she had a "second chance" at life.

Andrew said he and Lara responded to the scene where Suzanne's bike was recovered on May 10th, after Mallory called Lara at about 9:00 PM. Andrew and Lara stood with Barry on the road for four hours while law enforcement, along with search and rescue, searched for Suzanne. Andrew told Agents that Barry was silent for most of their time on the road, regardless of the suggestions Andrew made. Andrew told Barry they should explore the tracks around the bike or go down to the area where Suzanne's bike was recovered to see if they could see anything. Andrew wanted to search, look around and ask questions to figure out what happened to Suzanne, but Barry was not interested. Barry looked at Andrew and said, "You're a really good man." Andrew did not know why Barry said that in context of their situation. Andrew described Barry's expression as "stone faced" throughout the evening. Andrew said the bike positioning in relation to the road made no sense for an accident to have occurred, because the rider would have needed to make a ninety-degree turn from the road to head downhill.

Barry told Andrew he made the trip from Denver to Salida in an hour and fifteen minutes, or some similar ridiculous amount of time, once he thought Suzanne was missing. Andrew did not understand why Barry waited that long, until that night to come back, if he thought Suzanne was on a bike ride that morning.

Andrew helped with the searches for Suzanne, which Andrew described as disorganized. Barry and his friend, George, searched by themselves. Barry was gone all day every day and left his girls at the house. Barry tracked a mountain lion for an entire day across Highway 50, but he did not find anything.

On the third or fourth night after Suzanne went missing, and Barry had been complaining about law enforcement's focus being solely on him, Andrew went to speak with a friend of his who lives nearby and is a defense attorney. The attorney listened to Andrew, and he gave Andrew his business card to give to Barry. He told Andrew that Barry needed to take the polygraph test so law enforcement could focus somewhere else. Andrew took the card and gave it to Barry, explaining his conversation with the attorney. Barry was very excited to get the card and grateful for Andrew's referral. However, when Andrew told Barry the attorney recommended that he take the polygraph, Barry looked at Andrew and said, "I don't think I'd pass a polygraph." Andrew waited in uncomfortable silence for a few moments to allow Barry to qualify his statement. Andrew told Agents he got chills from Barry's response and thought

Barry's reaction was very strange. When Barry said nothing else, Andrew awkwardly told him he had to go, and he left.

Andrew waited until the present date to tell law enforcement about the encounter with Barry because he did not know if it meant anything to the investigation. Barry has since told Andrew that he spoke with the attorney a few times and the attorney has been helpful.

On December 8, 2020, Lara said that Barry called her on December 4, 2020 at 10:30 AM, and they spoke for ten minutes. Barry said his girls were angry with Sheila, having a hard time with her and do not want to talk to her. Barry told Lara he does not know why Sheila is doing "this." He said words to the effect of, "Suzanne's not dead. She's coming back." Barry thus did not know why Sheila felt she needed to remember Suzanne or grieve. Lara was shocked by these words but did not ask Barry why he thought Suzanne is alive.

**(Matt Craig)**

John Matthew "Matt" Craig, of Noblesville, Indiana, was interviewed by SA Grusing and SA Harris. Matt explained that Barry sold "BLM Landscaping Services, LLC" and Sunset Tree Farms to Matt, his brother Dan Craig, and Hank King. Matt's father signed as guarantor for the purchase of the business, which occurred on January 12, 2018, when they paid Barry $189,000.

Barry told Matt that he was making $200,000 to $300,000 per year and the client list in his phone alone was worth the investment. After paying the initial $189,000, Matt and the others agreed to pay Barry $50,000 per year over the next four years, due on August 1st of each year. They paid $50,000 to Barry in August 2019 and $50,000 in August 2020.

Matt told Agents that Barry's business was possibly worth $20,000, instead of the $389,000 they paid. Barry used his relationships through the church and his supposed good reputation to fool Matt and his family into buying a worthless business. Matt's father refused to allow Matt and the others to hire an attorney and sue Barry because he did not believe in lawsuits. His father felt it was his fault for agreeing to be the guarantor and he planned to pay off the debt.

Barry sold his BLM business once before, to Seth Pickett and Kyle Cambre, though he called the business "BLM Landscaping LLC" and left out "Services" from the business name. Matt found out after he bought the business from Barry that Pickett and Cambre also figured out BLM was worthless, and they refused to pay him the rest of the money they supposedly owed Barry in 2015 or 2016. Matt said he would have stopped paying also, except his father was the guarantor.

**(Ted Turner)**

On October 27, 2020, SA Grusing and SA Harris interviewed Ted Turner in Noblesville, Indiana. Turner explained he and Barry raised deer for hunting purposes, selling the deer for $5,000 to $7,000 so hunters could release the deer and hunt them for their horns. He added the deer are normally released in acres that are fenced and thus the chance to shoot the deer is guaranteed. Sometimes the people who bought the deer would act as guides and charge wealthy people who were willing to pay $15,000 to $20,000 to hunt a deer and get a guaranteed set of horns.

When Agents asked Turner how those who purchased the deer transported them off his property, he stated they brought a trailer, usually a horse trailer. The purchaser most often used a tranquilizer dart on the deer because herding them into the trailer is difficult. Purchasers, like Barry, had their own tranquilizer darts and guns for such purposes.

When the interview was concluding, Turner remarked, "Barry would slit my throat," if he knew Turner was talking to the FBI. Turner refused to elaborate on why he made such a statement but said all the deer farmers talk to each other and they knew what Barry was doing.

**(George Wimmer)**

On February 16, 2020, SA Harris and SA Grusing interviewed George Wimmer by phone. Wimmer explained that he first met Barry in 1998 or 1999 when he went to work for Barry at Salsbery Brothers. Barry was the foreman and Wimmer was a manager. Following those years, Wimmer went to work for a friend for a year and a half. He then came back around 2004 and Barry was starting his own business. Wimmer did not have much further contact with Barry.

Wimmer lost contact with Barry and found out years later he was selling his business to a young man named Kyle and another guy. Wimmer told Kyle to be careful because he had seen a lot of Barry deals go south. Kyle and his friend became defensive. Wimmer told them, "You are dealing with the devil." Following this conversation, Barry "blew up" Wimmer's phone. Wimmer eventually answered and Barry vented at him for warning the boys. Wimmer described Barry as shady, not on the straight and narrow, doing a lot of deals under the table, working in cash and hiring a lot of illegals. Barry told people that his Dad dying affected him so badly that he could not run his own business. Barry was not planting trees at the proper depth, either too shallow or too deep. He knew that he had to adjust the trees, or they would die, but he was too focused on making money and moving on to the next job. Barry planted rows of trees incorrectly and hurriedly, and they died.

When Wimmer learned Suzanne was missing, he Googled Barry and read about all that was going on with her disappearance. Wimmer was intrigued by it and saw the Tyson Draper video. After Wimmer watched it, he concluded Barry is "guilty, for sure."

Wimmer said that Barry thinks he is a really good liar and he is not. Barry is the kind of person that will just stand there and "tell you something you know damn well is not true." Wimmer would often just listen and not contradict because he just did not want the conflict with Barry.

Wimmer sent Barry a series of texts on September 23, 2020, accusing Barry of killing Suzanne and telling Barry he would rot in hell.

**(Holly Wilson)**

From October 2020 through December 2020, Holly Wilson recorded her phone and in-person conversations with Barry, providing those recordings to SA Grusing. Holly and her husband, Jeff Wilson, knew Barry and Suzanne well through their church in Indiana. During these recordings, Barry told Holly words to the effect, "you are Suzanne to me," he held her hand while in the car, gave her a kiss good night, told her Suzanne would approve of whatever would happen in their relationship, and twice touched Holly's breasts, pretending like the touches were accidents when her husband's head was turned away or not looking.

Barry told Holly that he had an ex-FBI guy working for him and sometimes saying he had a P.I. (private investigator) working for him who charged him over $50,000.[56] Once Barry told Holly and Jeff that he may have found where someone was holding Suzanne and asked Jeff to come to Colorado to "cut the guy's balls off."

---

[56] Barry would not specify if these people were the same.

The following is a brief summary of the pertinent quotes from the recordings of Barry and Holly:

(November 5, 2020)

When Barry was asked if he had thoughts of what happened to Suzanne, he responded that he had two ideas. Barry stated, "One, somebody took her, right there where the bike was, just, she they threw her in the car or she got in willingly, whatever, and ran off." Barry added, "Or, somebody chased her and she's in the river and she's still in the river right now, today, somewhere in a log jam."

Barry said he did not see anything else, adding the FBI was telling him that "she left on her own. They were trying to tell me that she left." Barry said she did not leave; he knew she would not do that.

Holly asked Barry if his guy was able to go through the list of people whom Suzanne was Facebook "friend requesting." He replied he had not spoken to him about it.

Holly wondered out loud if someone else hacked into Suzanne's Facebook. Holly said it was unlike Suzanne to send out a lot of requests, asserting, "If I had to bet I'd say it wasn't her." Barry said, "Yeah, she wasn't like that."

Barry was asked about the last thing he said to Suzanne. He replied, "I don't even know. It was just a normal night. We just ate dinner together and just had a quiet evening like we (unintelligible-UI) do."

Holly's spouse asked Barry what someone would do with Suzanne if that person took her. Barry responded that the person would keep her in a basement. Holly challenged Barry that someone would hold on to her for six months. Barry said, "And if that's the case, then (UI) she's underwater." He added, "Cause there's no evidence of anything else that's surfaced."

(December 5, 2020)

Holly talked to Barry on Facetime and he said, "I've been talking to the detectives and the FBI guy regularly, now." He added, "They seem to be on my side, finally, and helping me kind of feel better about things because of what they're telling me." Barry thinks they have Suzanne's phone. He said, "They found it by the bike, or they found it on the search, or they found it, uh, in the house. I don't, they won't tell me. They won't even tell me they have it, but I'm pretty sure, pretty sure they have her phone"

Barry said, "My guy knows I had nothing to do with it. He's already said he's proven that with his investigation." Holly asked what the private investigator is waiting for, then, in talking to the detectives.

Barry replied, "Um, I think, I think because they've been on different pages for so long, and, and he told me that, and everybody's told me this, that, eighty percent of the time it's the spouse."

Barry asserted the FBI told him they never give the house and cars back, and yet they gave Barry his house and cars. Barry said he told them, "I think I know why you did, because you found no evidence, because there is no evidence. It doesn't exist."

(December 17, 2020 – In downtown Salida, CO)

Barry: "I don't know if she was de-, what she was doing, putting in her body behind my back, but all I did was work. Or hunt. And she had idle time. Idle hands are the devil's tools. She had twenty-one years of doing absolutely nothing but being a mom."

Holly later said that Suzanne going to Al-Anon helped her detach from Barry. Barry said, "Let's go. I can't hear it." (He stood up immediately and walked out of the restaurant).

Holly said that Barry could never describe what his last image of Suzanne was to her.

Barry: "Well, I'll tell you right now we had sex that night and she was naked when I went to sleep. So, she obviously got up and put her pajamas on and when I left in th-, the next morning she was laying right there in bed. I didn't pull up the covers and look what she was wearing, if that's what you're asking me?"

Barry: "And it upsets me that, that women have to have their little secrets behind their husband's back when I'm her best friend and…It pisses me off. It pisses me off that if my wife went behind my back and said that shit about me."

He continued, "That's the problem with women. They get their little things going between each other and they have no respect for their husbands."

Barry later said, "Well, she said I cheated on her." Holly confirmed Suzanne told her the same.
Barry said, "But I didn't."

Barry later said, "I mean if I would have done one thing wrong, I would be in jail right now."

Barry said, "What you guys had in your little private conversations has nothing to do with the situation that we're in, unless she left on her own. And if that's the case, then I'm sure she'll surface someday for her daughters. But I don't believe that's the case. I truly believe that her disappearance was out of anyone's hands but God's. And God allowed that to happen for some reason and we might never know until we get to heaven."

Holly said if she had told Barry before Suzanne's disappearance that Suzanne was detaching from him, he would have reacted in the same defensive way. Barry said, "No. I would have sat my wife down and had a heart-to-heart talk about it." He adds he would not have been upset.

Barry later said, "And I was afraid that, talking to the FBI, and when we talked about this situation and they said she could have left on her own, I said, 'The only reason that she would leave is because she wouldn't have me hounding her about her problems.' And she was free to drink, free to drug and do all that."

## SECTION 6: Barry's Interviews with the FBI in 2021

This section includes summaries of audio and video recorded interviews by the FBI of Barry after he was informed of Suzanne's affair.

### (January 27, 2021)

[In this interview, Barry stated numerous times he had no idea of the affair and he asked multiple times to know who her lover was. He initially guessed her lover lived in Arizona (where he was telling Suzanne he wanted to go on Friday, May 8th) and said that maybe Suzanne's disappearance was a form of God's judgment for the affair.]

SA Grusing and SA Harris met with Barry at his condo in Poncha Springs, Colorado to inform him of the affair. Upon meeting Barry as he was walking behind his house and telling him Agents needed to speak with him privately, he said, "Ok, I'm working right now, can I get your number?" He eventually agreed to speak with Agents. After being informed Suzanne had an affair, Barry asked who the person was and how long the affair had been going on. He then said, "I, this is a complete surprise to me. I have had no idea of this and would never suspect her of doing this."

He later said, "Cause I never seen it on her phone. How was she?"

SA Grusing asked if Barry remembered her handing him her phone in Mexico - that he was trying to see who she was talking to. Barry said, "Yeah. Wasn't in her phone? Snapchat?"

Barry said, "I can assure you I had no idea there was another man."

Barry said, "I had no idea they were communicating. And if, if you guys are trying to tell me that I found out about this and did something, that's completely wrong."

SA Grusing said that Suzanne's and her lover's communications stopped Saturday afternoon.

Barry said, "Well I was with Suzanne. I came home to have lunch, went into town to get the blade on my bobcat fixed, and I was, that was, I had the wrong timeline on that... so if she was talking to this individual, it had to be when I came into Salida."

SA Harris told Barry that Suzanne was communicating with the individual on some occasions while Barry was in the house.

Barry asked, "Where is this guy from? Arizona?"

SA Grusing told Barry hundreds of communications existed between Suzanne and this person, especially on Saturday before Barry came back home, just before three o'clock.

Barry asked, "Can you tell me how many months it's been going on?"

SA Grusing said Barry could probably answer that himself.

Barry said, "Well, I can't answer that on the way she treated me, because she didn't treat me like she wanted to leave me."

SA Grusing told Barry about the recording pen and the conversation when Barry asked Suzanne to tell him if she loved him, and she could not answer that she loved him. Barry was asked if he remembered that. Barry was shaking his head side-to-side to signal "no" as he replied, "Yeah, I remember." Barry began to cry audibly.

Barry stated, "She's always been insecure because she didn't have a father. He left. Was a drunk. When we were dating, insecure that I'm cheating, I'm having an affair. When we're married and I got a secretary, that I'm having an affair with her. You can go back through my whole entire life. I've never even touched, let alone talked or text, to another woman besides my wife. You'll never find that."

Barry asked to guess who Suzanne's lover was and said, "It's either David Huff or Kevin Stout. Am I right?"

Agents did not confirm, and Barry began to talk about Suzanne possibly being in the river.

SA Grusing asked, "The river from an accident or an abduction?"

Barry said, "Either one. I don't think it, the way I see it, it was an accident and she ran from somebody to the river."

He continued, "If she got in the river and hit a rock with her head from that, that could've been a possibility, or they could've grabbed her at the river and took her up."

Barry was asked if he found out something about Suzanne on Saturday or if someone else was involved.

Barry shook his head and said, "There's nothing that I found out Saturday about her having an affair. Nothing."

SA Grusing asked if he found out Friday or Saturday if she was having an affair.

Barry said, "I told you, I've already told you this, this is the first day that I found out she had an affair. I, you researched the lady. She, she's an angel. She's a saint. This just blows my mind and it's gonna blow anybody's mind to find this out."

He added, "And as soon as they find out, they're gonna say, 'Old hot head Barry found out and killed his wife.'"

SA Grusing told Barry about the May 6th text wherein Suzanne said, "I'm done. Let's just handle this civilly." Barry was working and his responses were that "life was not worth living," and, "Going to meet my Savior," and, "Life is a mere grain of sand compared to eternity."

Barry said, "Yeah, and I was just trying to hurt her. That's all I was doing. I would never have killed myself with my daughters."

SA Grusing told Barry that investigators noted Suzanne did not tell Barry not to commit suicide. Barry said, "I know. Well it makes perfect sense now why. Back then, it didn't to me. I would want her to say, 'No don't hurt yourself, blah, blah, blah,' But, yeah, it didn't come."

Barry said, "I appreciate it, but I want you to know that I've been a Christian my whole entire life. I accepted the Lord. I love the Lord…And he knows why this happened and I gotta trust him. I have to trust that he did this for a reason."

He added, "I'm telling ya, I had no idea of this until today. But, looking at everything right now, things are making a little bit more sense to me from God's point of view because I would never understand why God could take away my wife after I fought two battles of cancer with her, had two miracle babies that we shouldn't have had, and had a wonderful life together."

Barry continued, "I can promise you that I knew none of this until today."

Barry said, "She never talked Saturday, to me, about leaving. I mean is, did you find communication between her and I Saturday about that? Because to me Saturday was a good day. We had a good evening together. Saturday – Friday we had an argument on the phone. Friday, I'm sure you've seen that."

SA Grusing told Barry that for some reason it seems he is placing Wednesday as Friday.

Barry said, "Oh."

SA Grusing reminded Barry that it was Wednesday when Suzanne said she "was done."

Barry said, "Ok, then that was Wednesday, not Friday. Friday – she would go through these times where we would fight like that and then everything would be back to normal. And it was like nothing ever happened. And we'd go eat dinner. We'd go have, home. We'd have sex. Everything would be fine."

SA Grusing told Barry that investigators have a fuller picture of his actions in Broomfield.

Barry said, "I, I, I told to Joe and Derek everything. And Joe's like, 'Well why are you going to five different trash cans and throwing all kinds of crap away?' And I said, 'I, I've done that my whole entire life.' My truck is a mess. I go, I throw things away here and there, cause I'm a tightwad and I don't want to pay for trash pickup or this or that or I had time - that day I was, I was going to, umm, have more time, spend more time on that wall that day, but when I got to it and realized, that, my workers were going to come and I could just have them do this stuff – and I had time on my hands."[57]

SA Grusing asked Barry about coming home on Saturday after errands and whether he remembered where Suzanne was when he got home.

Barry said, "No."

SA Grusing asked if she could have been out on the deck.

Barry said, "I don't remember (shaking his head side to side before answering). I do not recall where she was when I got home. I don't even remember going to town and doing that."

SA Grusing told Barry that investigators have some images to show him.

Barry said, "Of that, that she sent to this guy?"

SA Grusing confirmed and said that it might be the last time outside of Barry that she is seen by someone else alive.

Barry said, "I'm telling you right now there was nothing out of the normal Saturday afternoon. Nothing. It was almost like…it's almost like, that evening, nothing ever happened to us that week. She's like one person one day, another person the other day. And when she acts like that, I'm going to accept it and take it all in, because when she's distant and cold, I don't get any affection. And Saturday, there was no problems. None. And, I don't understand, that you're telling me that she's communicating with this guy Saturday all day. I'm working till noon. Come home, eat lunch with her. Leave again and come home and then spend the evening with her. Eat supper with her. Have sex with her. I can assure you that Saturday night was a good night for us. And I can assure you that we made love that night. And there's no way that she would have done that to me if she's got this head on about this other guy."

SA Grusing said that Suzanne was disclosing things about their love life to the other guy.

Barry said, "Well, I'm sure if she's not, disclosing things – our having sex with 'her lover' (Barry made air quotes with his hand while saying this), because that would upset him. So, she's probably lying to him if she's saying we're not having sex, 'cause we do. And we did. And I can assure you that that night we did. One hundred percent. And February when I went to meet her in Florida, that's all it was, was sex." I mean why would she do that to me if she's got this other guy that she's leaving me for? This is not, none of this is making sense."

---

[57] Barry's story that he had time on his hands after working on the wall contradicts his five trash runs on May 10th, four of which occurred before he went to the wall - then finished with his walk across the hotel parking lot.

SA Grusing asked what does not make sense to Barry, adding that Barry said earlier things were making sense.

Barry said, "Making sense in God's eyes…Why someone like me, someone like us? Well, now that you told me that she was having an affair – maybe, I don't know, maybe in God's eyes this was his way of resolving something. I don't know."

Barry stated, "That's just why I said it's making sense to me with God's relationship. None of this, I'm telling you that there's nothing that I knew about. I know I had texts where I said, 'Yeah, you, you're having an affair, you having a boyfriend.' I just did that to reciprocate what she was saying to me."

SA Grusing said that Suzanne had on her notes on her phone that Barry accused her of having a boyfriend on May 6th, which is the same day she texted and said they should just do this civilly. SA Grusing asked Barry if he remembered that.

Barry said, "Yeah – I remember that, but I wasn't, I wasn't, I didn't mean it. I was just saying it to get to her, to try to get to her." Barry talked about striking Suzanne once, when he clipped her nose, but that was the only time he was physically abusive.

SA Grusing said that in doing the victimology work on Suzanne, investigators know that was not the only time she came at Barry. And that when Suzanne got frustrated, she would physically come at Barry.

Barry said, "She physically come at me several times through my life and I took it. And I'm a man and I'm tough and I can take it. Gotta lie about the scratch marks,[58] in, in front of people when they're on my face, but…that is the only time I ever touched her and I swear to God I would never lay a hand on my wife and that was just a crazy reflex."

SA Harris asked Barry what he meant when he said this might be God's way of resolving things.

Barry said, "I tell you what. I've had a very hard time understanding why God did this. And he allowed it. You, if you know what you know, you know that he allows bad things to happen. But all that we've been through, I just, and all that we are, I can't, I couldn't understand it. And maybe we'll never understand till we get to heaven. But, if I would have known this in the beginning, I, I wouldn't had to suffer for nine months, not knowing why God did what he did. I'm not saying he did it to punish Suzanne because of her affair, but it makes more sense than what I knew before you guys came today." Barry said he wanted the news of the affair to be kept between Agents and him, adding, "And if we can all keep this private between us forever that's all I would ever want."

**(January 28, 2021)**

[In this interview, Barry suggested that Suzanne ran away, discussed with Agents her numerous trips to meet her lover, was told by Agents that her lover thought the affair led to her homicide and was told that no-body cases could be proven.]

---

[58] Reference the scratches on Barry's left arm on May 13th in CCSO photos. Barry later to the FBI he did not recall how he got those, possibly from a tree.

SA Harris and SA Grusing attempted to contact Barry Morphew in a construction area behind his temporary residence in Poncha Springs, Colorado. He spoke with Agents by cell phone as he walked back and forth in front of the car, about fifty yards away from the vehicle, though Agents said they needed to meet with him. Some of the conversation included:

After thinking about what he learned yesterday, Barry suggested that Suzanne ran away. He said, "Can you answer, that, can you answer? Could she possibly have staged her bike and got in the car with somebody? I know that they did, a, uh, research on all of the vehicles that were in that area. And, I mean, did that clear that, you know, possibility? Because she's not a dumb person. She's pretty stinkin' smart and if she's thinking of just taking off, that's something that she would think about. I know her. Is that a possibility? That she did that?"

SA Grusing told Barry that Suzanne sent her lover photos of herself, serving as her last proof of life.

Barry stated, "Well, let me tell you this, and see if you can shed some light on this. I told you that in the past year, not the past year but before that happened the past year, she had taken seven trips by herself. Are you guys aware of those?"

SA Grusing confirmed, and Barry replied, "And, one of them was to Louisiana. Are you aware of that one?" SA Grusing confirmed and Barry replied, "And was this individual that she was having an affair with at that location with her?" SA Grusing asked Barry his thought and why he brought up Louisiana.

Barry stated, "Because it would just, when it happened, and she said she was going there it didn't make any sense at all to me. She's like, 'I've always wanted to go, blah, blah, blah.' And she was going through cancer, I was trying to make her happy, wanted to give her whatever she wanted. But I, when I was questioning her,[59] it didn't make sense to me why she would want to go there."

Barry asked, "So, I mean, then that means you guys have evidence? That she's not?"

SA Grusing stated the FBI uses methods to determine if someone is alive or not.

Barry asked, "In your systems of, of investigations? This? These things that, or physical evidence?

SA Grusing concurred there was little physical evidence, and he told Barry that recently some "no-body homicides" cases have used the FBI to prove someone is not alive.

Barry responded, "Hmm. That's very interesting."

---

[59] Barry admitted to questioning Suzanne about the New Orleans trip (to meet Libler), further evidence he suspected the affair.

Barry asked, "Was, when you approached him (her lover), what was his demeanor?"

SA Grusing said he was shell-shocked and very contrite.

SA Harris, confirmed he was shell-shocked and contrite, adding that the man feels bad about it.

Barry asked, "Feels bad? He feels bad about the affair?"

SA Grusing said, "He wonders if the affair caused her to disappear and caused her homicide."

SA Grusing added Suzanne's lover said, "Maybe it was my fault. Maybe my relationship with Suzanne caused her to be killed."

Barry was silent for a few seconds.

Barry stated, "See, now you guys are talking, this, uh, you're talking, in a way that just, it really bothers me."

SA Grusing asked, "Why?"

Barry said, "Because I have no evidence of my wife being dead. And that's, you guys are absolutely certain of it, and that's, that's very tro--, that's very troubling to me."

SA Grusing said that yesterday Barry said he thought she was under the beaver dam, and SA Grusing does not think that she would not have survived down there.

"I know, but I don't know that for a fact. I said, 'That's my thought.' After nine months of nothing from anybody, that seemed, that would seem to make sense why there's no evidence, but I don't know that for a fact."

Barry later said, "Lemme ask you a question. You guys have bugged my phone. You've heard every conversation that I've had since May 10th. I, if I, if there was one thing that I said, I mean, you've done this for twenty-five years, I mean, there's no conversation that I've had with anybody that would make you guys look at me as a sus-suspect."

SA Grusing reminded Barry about the problems he cited earlier with CBI, adding that Barry's statements do not make sense with some of the evidence. SA Grusing told Barry the FBI was "not after" him but just trying to find Suzanne.

Barry stated, "Ok, well I'm at my meeting…I gotta get back and get to work."

**(February 28, 2021)**

[In this interview, Barry again asked for the lover's name, gave his code for knowing when people tell lies, discussed his activities on Saturday, May 9th, and significantly changed his earlier accounts to match evidence provided to him – putting a gun in his hand that afternoon when Suzanne was last known to be alive.]

At 1:14 PM, SA Grusing greeted Barry, and Barry replied, "Hey guys." SA Grusing told Barry that Agents needed to share information with him. Barry stated, "I got a meeting here in about ten minutes I was gonna head for, but, uh, how long will it take?"

SA Grusing told Barry he has first right of refusal to the information. He asked, "Is this about her and the, the guy?" SA Grusing said Agents would like to discuss the affair, the technology and other aspects, and that Barry can clear this up.

After a few minutes, Barry asked, "Are you able to give me the name of the gentleman?"

SA Grusing said Agents could share more information with Barry then asked him what giving him the name of the man would do for him.

Barry answered, "It's, it's just peace of mind. If it was a friend? Or an acquaintance? Just peace of mind. Wouldn't you want to know if it was your wife?" SA Grusing said he did not know how he would respond.

Barry added, "Yeah, I mean just to know, that wasn't a friend, at least." SA Grusing confirmed the man was not Barry's friend.

SA Grusing responded the evidence points towards her not being alive with the facts collected to date, not to determine who was guilty.

Barry said, "And, and, and, I'm not guilty. There's no doubt. That I'm not guilty. I'm just telling you that from what Joe and Derek did to me…I mean, Jim Comey's a liar, and, uh, I mean, do you think he's a liar?"

SA Grusing said he did not know if Comey was a liar, and Barry interrupted, "That's ridiculous. How could you not know he's a liar from what he said on the stand? In front of the Senate?" SA Grusing asked what he said.

Barry stated, "Well, I don't know exactly what he said, word-for-word, but they asked him questions and he said, 'I don't recall.' Just like Hillary Clinton. All, all them freakin' liberals don't 'recall anything' when they don't want to tell the truth."[60]

SA Grusing told Barry that Agents brought a notebook with evidence they would like to share with him. Barry replied, "Could you answer me some questions first? Was she with him in New Orleans?" SA Grusing said she was. Barry asked, "And was she with him in Florida?" SA Grusing said she was. After a pause, Barry asked, "And Indiana?" SA Grusing said she was. Barry asked, "And how long has this been going on?" SA Grusing said, "Two years."

---

[60] Barry's equating of people saying "I don't recall" means to him that those people are telling lies was told back to Barry on April 22, 2021, when Barry said "I don't recall" to most of the critical questions about what happened to Suzanne on Saturday and Sunday, May 9th and 10th.

Barry asked, "Two years?" SA Grusing said it started shortly after they moved to Colorado.

Barry asked, "And you can't tell me where they connected, the first time?" SA Harris said they connected through social media, and Barry repeated, "Social media."

Barry said, "And the app you said they were using to communicate, there's no way that I could've know about that? And what was that called again?"

SA Grusing said Agents did not want to give that to Barry, and he replied, "I'm not going to go hunt…" SA Grusing told Barry he was a hunter.

Barry said, "I know, but I need this for my, I mean, I've," he continued, "So who, I mean, just tell me who the guy is. I don't know why can't you answer that. I'm not gonna go do anything to this guy. I, I can't afford to leave the only daugh--, the only parent that my daughter has. If I go beat some guy up and go to jail. I can't afford that. Would I want to? Yeah, would you? Yeah. Somebody screwing your wife for two years behind your back. That's just cold-blooded, I would never do that to a guy. But I'm not gonna do that. But for my, for just me, my peace of mind, I'd just like to know who it is. And do you believe me when I say I had no idea this was even happening?"

SA Grusing said some of the evidence items that Agents brought to show Barry would help prove he did not know.

Barry said, "Well, I didn't know. I'm telling you right now, I mean, she was the last person in the world I would suspect would do this…But for her to pull this off, blows me away."[61]

Barry stated, "Did she leave that night? Because I told Joe and Derek that we had sex and went to bed and I went to sleep, and I work so hard that when I go to sleep, I'm out until three o'clock."

SA Grusing asked about the hike to Fooses Lake, if that happened.

Barry said, "Well, I was confused on the hike, too. I thought it was that Saturday, but after talking to Joe and them, it could've been Friday. It could've been Thursday. I remember us doing that, and I thought it was Saturday."

---

[61] Barry has made at least thirteen assertions by his third interview with the FBI, most of them unsolicited, that he had no idea about the affair and asks Agents to say they believe him. This contradicts other statements made to the FBI and his actions in 2019 to find out who Suzanne is talking with and who she is seeing on her trips.

SA Grusing asked if Barry came home Saturday and went for the hike or bike ride. Barry said, "When I came home, we did lunch, then." SA Grusing asked if that was veggie soup, and Barry replied, "Yeah, yeah, lunch." SA Grusing asked if they hiked after lunch.

Barry said, "I don't recall. Because I don't even recall taking my bobcat back to Crib."

SA Harris confirmed Barry texted Crib that he was at the house and needed a few minutes.

Barry said, "Ok, yeah, and I don't, I don't know why. I've got a great memory. I don't know why I don't recall that."

SA Grusing said Barry called "Tim Backhoe" and Barry said, "Backhoe attachment for the bobcat. And I looked at that. I don't know if it was that day, or what."

SA Grusing told Barry he drove to where the backhoe attachment was, and Barry interjected, "Looked at it." Barry said, "Well, I didn't like it. I looked at it and didn't like it. Yeah, I called him and told him I wasn't interested." Barry eventually said he wasn't interested because of the price.[62]

SA Grusing explained that Suzanne took her "last proof of life picture" while Barry was out on this errand, but it was not apparent where she was. Barry said, "Oh, she had to be at the house, because…"

SA Grusing said Suzanne's location at the house was unclear and asked Barry if he would look at the picture.

Barry said, "Yeah, and, like I said, I'm running really late. I don't have an hour but let me look at this." He added, "And I would really like for guys, since I'm being cooperative, trying to help you, that you would give me the name of this guy. That's, I mean, that's all I want for peace of mind."

SA Grusing told Barry he had not been cleared yet in Suzanne's homicide, citing the evidence in the affair and the other collected evidence, and that some of the evidence is contrary to his statements.

Barry said, "Yeah, but it can't contradict my statements. There's just no way. I told Joe word-for-word, place-for-place everywhere I was."

SA Grusing asked Barry about his first statement of setting his alarm for 4:30 in the morning.

Barry stated, "I, I don't remember setting the alarm. I might've told him that…"

SA Grusing confirmed he told him that. Barry said, "But, but, not my phone alarm, the, the clock alarm. But, I, you know, I set that thing so many times, I mean, maybe I didn't remember, but I know I wanted to get going early and sometimes when I know I gotta get up early I set the alarm."

SA Grusing told Barry the FBI knew he was moving well before 4:30.

Barry said, "I get up, I got, uh, an enlarged prostate. I get up and pee and all night through. All through the night."

---

[62] Reference earlier interview with Tim Klco, Barry already knew the price of the backhoe attachment and never told Klco why he did not want to buy it after that Saturday, May 9th.

SA Grusing interrupted and told Barry he was outside, in his driveway.

Barry said, "Well, if I did anything, anything outside, it wasn't anything wrong."

SA Grusing explained Barry's statements do not matter compared to the importance of him seeing the evidence.

Barry replied, "It doesn't matter. Your evidence does not matter. Because it, it's, if it's anything to do with tying me up with her disappearance, it's wrong."

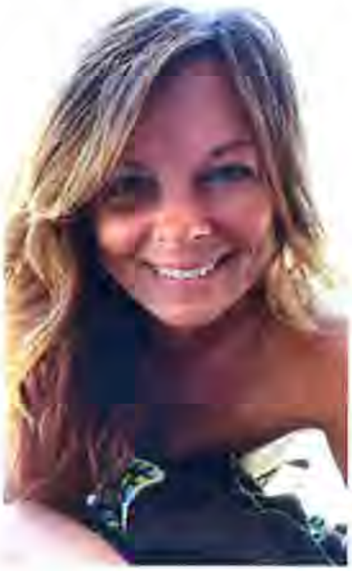
SA Grusing said the Agents are in an auditor role, not determiners of guilt.

Barry interrupted, "But Jonny, you know that there is nothing on my phone that shows that I knew about her affair…So, I know, I think I know what you guys are trying to do. You're trying to say if I knew about that, then I did something."

SA Grusing later told Barry that Suzanne told Jeanne Ritter not to come over to have coffee that week.

Barry said, "See, this is all pointing to her leaving. All of it is, and if she's in Mexico somewhere, and she's freaked out or something went wrong, how do we know that?"

Barry said he had to go to work but agreed to see the photo of Suzanne's last proof of life.



Barry looked at the photo and said, "Well, look at her. She's obviously drunk. Look at her eyes. Do you know what drunk eyes look like?" He added, "I mean, would you say those eyes are drunk eyes?"

SA Grusing said bloodshot eyes are what he looks for.

Barry said, "No, it's, it's the la—the lazy eyes is what I see in her and she drank-"

SA Grusing asked Barry if she was wearing that swimsuit when he came home. He said, "Uh, she was laying out," when SA Grusing confirmed, Barry said, "Yep, yep."

SA Grusing asked if this arrival at home was after the blade change with Cribari. Barry replied, "No, that's from going home after I got finished with Morgan for lunch. She was laying out and then we ate lunch." SA Grusing said the photo was taken later that day, and he replied, "Then she must've went back out when I left."

SA Grusing asked Barry if Suzanne was still laying out the second time he came back. Barry shook his head and said, "I don't recall that." After a pause, he said, "I don't recall."

SA Grusing told Barry that when he arrived that afternoon, his phone went around the house "quite a bit."

Barry was nodding his head and saying, "Mhhmhh, mhhmhh." SA Grusing asked, "Were you looking for her?"

Barry said, "I shoo--, I shoot chipmunks."

SA Grusing asked, "You shoot chipmunnks?"

Barry said, "Yeah."

SA Grusing said it looks like he was chasing one.

Barry said, "Yeah, I was, I've shot 85 chipmunks because they got into my furnace and cost me a bunch of money. So, when I'm home..."

SA Grusing interrupted and asked if he used a .22, and Barry replied, "Twenty-two. So, when I'm home I just walk around and shoot 'em. Just keep going around the house." (Barry made circular motions with his right arm.) He said, "Everytime I go around the house, I'll see another and I'll shoot it."

SA Grusing told Barry that activity would explain his phone's behavior, adding that he left his driver door open in the garage before he went to the first patio. Barry said, "Mhhmhh," and said,

"Yeah, shootin'," while nodding his head during the description of movement. He added, "No, I'm shootin' chipmunks. I've done that ever since we've moved in."

SA Grusing asked Barry if he remembered doing it that day. He nodded his head and said, "Mhhmhh, oh yeah."

SA Grusing asked Barry what happened next. He shook his head and said, "I don't recall."

SA Grusing asked about the hike happening then.

Barry stated, "It could've been, very, I know there was one in the two or three day period where we went to Fooses, but I don't know, I can't tell you exactly when it was and I don't recall it."

SA Grusing showed Barry a photo sent by Suzanne to Libler in the morning of May 9, 2020 with a series of texts discussing Barry's desire to move to Arizona. When SA Grusing asked if that was her closet, Barry said, "Yep." The texts discussed pizza from the night before, and Barry said, "Yeah."

When the text, "He's still wanting Arizona," was read, Barry asked, "Who's he? Me?" SA Grusing confirmed.

Barry asked, "Why is she talking to this guy about me? And my life?"

SA Grusing reminded Barry of him asking Agents about Suzanne being in Arizona - if he was suspicious about Suzanne's guy being in Arizona at that point. Barry asked, "Is this guy from Arizona?" SA Grusing answered he was not. Barry asked, "Can you tell me what state he's from?"

SA Grusing said he was from Barry's home state, and Barry repeated, "Indiana? From my home town?"

SA Grusing said he could not tell Barry that; SA Harris said if anything happened to the guy Agents would be placing Barry in a bad place. Barry interrupted, "I understand that. I understand. And nobody knows but you guys? Not Chaffee? CBI?"

Barry was shown a picture of the locations around the Morphew house of Suzanne's phone activity at 4:10 AM and 4:15 AM on May 10, 2020. He said, "Well, if she did that, I have no idea that it went anywhere but the house, but if you was to ask me, I'd say, 'It was at the house the whole time.'"

SA Grusing told Barry that Agents wanted to complete this with him this evening. He asked, "Is it gonna be done?" When told it would be done, Barry asked, "Done, done?" SA Grusing told Barry if he sat down with Agents and went through the binder, Agents would be done talking to him.

Barry asked, "But what if I tell you something wrong that was di---wha--(UI) different with Joe and Derek?"

SA Grusing and SA Harris explained that Barry was helpful today and that other interviews would be the same.

He said, "I mean, these things, are just, they're not even relevant. I just.."

SA Grusing said Agents have a lot data and Barry is the one who knows. He said, "Alright, I'll call you when I get finished," and he walked away.

**(February 29, 2021)**

While SA Grusing and SA Harris were parked about one block away from Barry's condo, Barry drove his truck beside the Agents' car at about 5:03 PM and handed a weathered .22 caliber altered rifle with a newly mounted rifle scope to Agents. Barry said that was the gun he used to shoot the chipmunk and he had to leave to workout at the gym.

03/04/21 17:03:38

**(March 1, 2021)**

[In this interview, Barry again significantly altered his prior statements to adjust to evidence presented to him. He said he turned left on Highway 50 as he left the house on May 10th to see where elk were going, which put him in the direction of Suzanne's helmet. The admission to SA Harris was the first time Barry admitted to turning left on Highway 50, away from the Broomfield route. This accounts for the missing mileage from his return to trip home from the Broomfield hotel – Barry's odometer registered a 183-mile trip to the hotel that morning, including about 2 miles of deviations, and a 167-mile trip on the same route home – for an approximate 14 extra miles.]

SA Harris explained to Barry that sometimes questions shed light on things and helps investigators know where not to look for Suzanne as well. SA Harris states there are things about his truck we are wondering and asks Barry when he left for Broomfield, did he turn right or left on to Hwy 50?

Barry said, "Yeah, there was a herd of elk in the road and there was one bull and he was a nice bull. And they all went up the gulley there, where that old washed-out road is and they went up there. And I'm like, 'Oh, I want to see how big this bull is.' And I turned down there, and and, they crossed right in front of me and then I went down to the Garfield turn around and then went to Broomsfield."

SA Grusing asked what Garfield is.

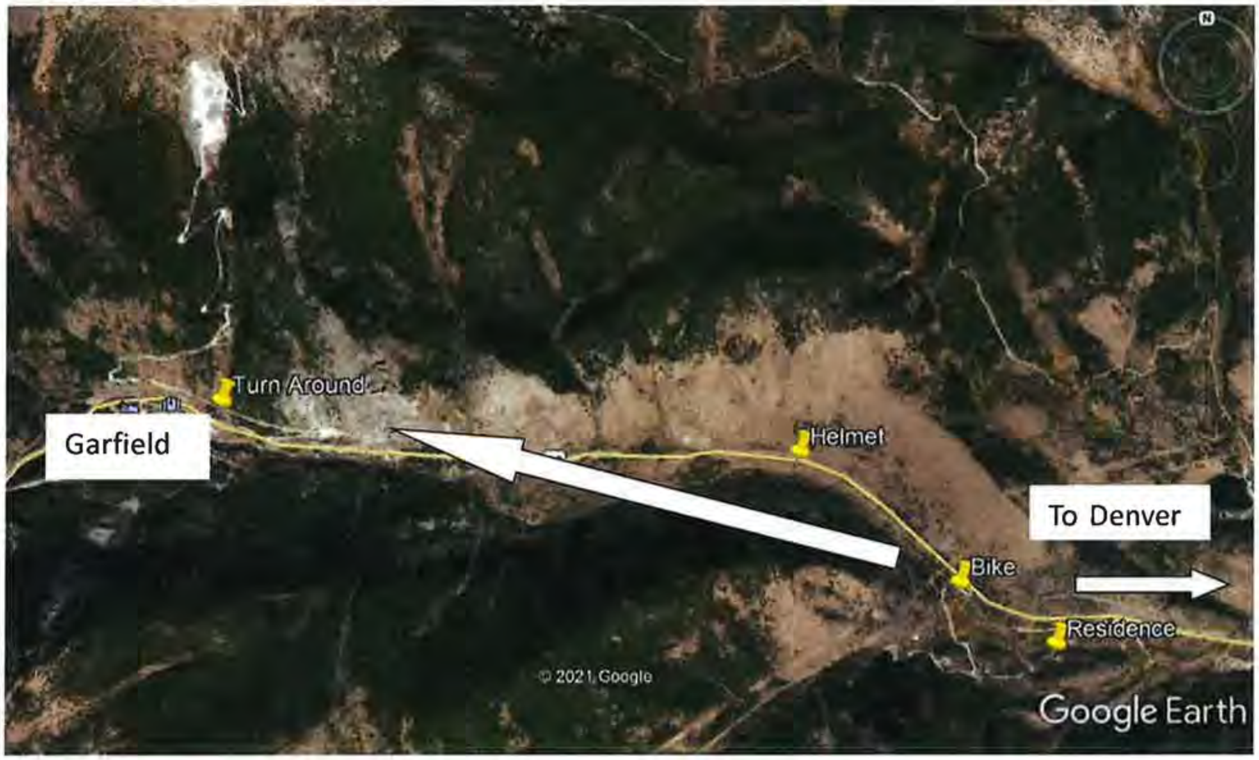
Barry said, "It's a little town before the ski town. Little ski town."

SA Grusing asked if it was before Monarch.

Barry said, "Yeah. I turned around right there."

SA Grusing explained that Agents have checked and hadn't seen Barry or others go past the Monarch camera.

Barry said, "Yeah, I didn't. I turned around there. I turned, I, I went that way because I saw those elk. They were in road right there, before I got up to 50. And I let 'em cross and then there was one good bull in there and I like, 'Man.' And I just missed seeing how good he was. Yeah know, I'm a hunter and I just wanted to see him and I just turned that way to look at him. That's, yeah, that's, that's the only thing and when I went to Broomsfield, I told Joe and Derek everywhere I stopped. I had crap blowing out of the truck, I pull over at one spot, got my truck situated, went off…"



Barry's trip to Garfield adds an approximate five miles each way to his morning trip, and places Barry and his vehicle in the direction the helmet was discarded – west from the bicycle.

**(March 5, 2021 – Part 1)**

[In this interview, Barry asked for immunity, asked not to get thrown in jail, said there was no evidence, demonstrated how he placed his phone in Airplane Mode, said Suzanne made him a monster and things "just blew up," and further explained the chipmunk and bull elk stories.]

At approximately 6:07 AM, SA Grusing and SA Harris contacted Barry Morphew at the DSI facility, 7625 W Highway 50, Salida, Colorado. Agents had an appointment with Barry from the previous day to meet at 6:00 AM at his residence, however, Barry left his residence at about 5:40 AM and pulled into the DSI lot at approximately 6:05 AM.

Barry stated, "Yeah, I had a package at UPS I had to pick up, they closed at six and I had to get there at six to come back to the gym. I didn't lie to ya."

SA Grusing said Agents were working a homicide case – and desired to work with Barry and clear him if possible.

Barry said, "That's that shoulda been done months ago." SA Grusing said the FBI's job is to collect facts, review the warrants and Barry was the main person to explain the facts. Barry was told his cooperation was voluntary, and if he chose not to help explain the facts in the case, that was his decision.

Barry continued, "But everybody's got eyes on me, they see me talking to you. There's people seeing me talk to you right now. There's cameras right now. And it's gonna get out."

SA Grusing told Barry that him talking to the FBI should appear normal to other people and help them calm down.

SA Grusing told Barry that Barry's explanation of going to Garfield helped explain the missing seven miles each way from his truck, something Joe did not know in July.

Barry talked about how speaking with the CBI was bad for him because what he told them got out in public. SA Grusing told Barry that he considers talking to Agents as a bad thing. Barry was told what normally happens if a dad is missing a daughter, or a husband missing a wife, is that they knock on the FBI door all the time.

"I wanna believe you wanna help find my wife, find out what happened, but the things that you've told me has crushed me. It's crushed me, and, uh, I don't know, there's no way you guys can know how I feel. I went nine months thinking one thing, and then all of the sudden you guys come to me and, Boom. My whole mindset is changed about this whole thing. I'm crushed. I don't know what to do, I don't know what to say. I don't want, I can't leave my daughter. You guys throw me in jail, I've got a seventeen-year-old that's on her own. You, you guys don't want that."

Barry later stated, “And I know there’s no evidence on me because it doesn’t exist.” He added, “I’m, I’m tellin’ you that.”

SA Grusing said things exist that are not explained, and Barry can help with those.

Barry said, “You told me that if I explained them to you that you would clear me, publicly.” SA Grusing agreed.

Barry added, “Because that’s what I need cause this whole world, is freakin’, they’ve trounced me.”

SA Grusing told Barry that talking to Agents is not a bad thing. Barry stated, “It’s not a bad thing for you. But if something happens and I say something wrong, or I don’t recall something that I told Joe this and I told you something else, boom, I’m done. I lied.” SA Grusing told Barry that Agents would tell him when his accounts to Joe differ from current statements.

Barry said, “You know when I talked to Joe? I was frantic in my mind. I was out of my mind, even being able to talk to him like I did blows my mind that I was able to do that. Because I was crushed, and I just . . .”

Barry said, “And I gave you my gun. That’s my chipmunk gun. They didn’t even take it.”

SA Grusing said the gun did not appear to have been fired in a long time.

Barry said, “Yeah it has.” He added, “I’m just telling you right now that if I was guilty, I wouldn’t hand over weapons to you guys.”

SA Grusing said Barry’s movements that afternoon, to include the truck door opening, him running from porch to porch and Suzanne not answering texts from her lover look different from investigators’ perspectives.

Barry stated, “I explained that. I mean, there’s, I mean, you can ask anybody that knows me – I’ve sh--, I’ve killed 85 chipmunks at my house. That’s all I do, I mean I can’t sit still. I’m a worker. I’m a busy bee. That’s what I was doing that day.”

SA Grusing asked Barry for permission to ask another question about the chipmunk thing, and Barry said, “Yeah.”

SA Grusing said from 2:44 PM to 2:47 PM, Barry is going to the porches. Barry said, “Mhhmhh.” SA

Grusing said at 2:47 PM, Barry 's phone went into airplane mode. SA Grusing asked Barry if he placed the phone in airplane mode.

Barry asked, "I don't, where was, Was it on me? Or was it on the kitchen or what?" SA Grusing said the phone movement was how Agents knew Barry was moving around. Barry said, "Oh, because it was on me?"

SA Grusing said that in the past, Suzanne tried to track Barry's phone because she thought he was having an affair, and Barry said, "Mhhmhh." SA Grusing said Suzanne told her friends and lover about her tracking him. Barry stated, "Well, she's told me that. I mean, she's tracked me everywhere I went (UI)."

When SA Grusing said Barry may have been placing his phone in airplane mode to keep from being tracked, he said, "No. No. No, I don't recall turning my phone on airplane mode. I do not recall that."

SA Grusing further explained that Barry's phone went into airplane mode at 2:47 PM and came back out at 10:18 PM, adding that maybe Barry did it on accident. Barry looked at his hand, as if he was holding his cell phone, and said, "Yeah, it's the first thing that comes up when you hit 'Settings,' and it would, if that happened it was probably an accident."

He added, "I mean, I do not recall that."

SA Grusing told Barry that his truck doors were opening and closing as it backed into the middle of the driveway.

Barry said, "I had junk in my trunk, and I always have junk and I'm always taking somethin' out, leaving my door open. I mean, I don't know that that's the case but that's what I did."

SA Grusing said the truck doors, to include passenger, were opening and closing until 9:52 PM, that Barry must have been loading a lot in his truck. Barry said, "To go, to get ready for Broomsfield. Yeah, I was putting everything in my truck for Broomsfield, I was cleaning off my workbench, for, just because, it was a wreck.[63] And, I'm sure I was just loading for Broomsfield."

SA Harris later explained the affair started because Suzanne needed someone to talk to. Barry asked, "Was it an old boyfriend? At least tell me that," and SA Grusing said he was not. Barry asked, "They didn't know each other in high school?" SA Grusing said Suzanne reached out to someone to talk to because Barry was working all the time, and SA Harris said Barry was gone from Suzanne for two years in Indiana.

---

[63] Barry admits on April 22, 2021 to the FBI that the tranquilizer was on the workbench and that it likely got thrown away in Broomfield.

SA Grusing said that for Suzanne, perception was reality. For instance, when Barry put a gun to his head, he was not physically abusing her, but she felt like he was. Barry said, "Mentally, emotionally. I know. She said that."

Barry added, "If I abused her any way it was emotionally. And I got angry at times, but it was just because she accused me of these things that just were not true. And I had no way to prove it to her. She had no evidence that I ever did anything with another woman, and I haven't. But I couldn't prove that. I mean, you think, 32 years of a lover you could look 'em in the eyes and say, 'Honey, I've never done that to you.' And they would believe ya, but she didn't. And I think she took that mindset with her alcohol and her pills, her depression, her, and her cancer, all of this. And I think she made this monster in her head. And it just blew up."

SA Grusing asked Barry about accounting for mileage when he saw the bull elk, whether he climbed or how he turned around. Barry said, "No, I just turned around." When asked where, Barry stated, "Garfield, probably the first place that I could turn left in, I just – I didn't go in and then turn around. I just backed in and went straight to Broomsfield."

Barry said, "And I had no idea, and I shoulda told that to Joe," then SA Grusing interjected and said Joe did not know that back then.

Barry said, "Yeah, but I didn't, I didn't keep it from him, it just didn't come in my head."

SA Grusing told Barry he could not be a good dad for Macy because of the stress. He replied, "And I'm not, and it's killin' her. And I just wanna put it behind, I just wanna start new. I just wanna start over. And I don't know how to. I loved (or love) Suzanne. I hate what she did to me. That breaks my heart. But I can't live like this. I can't go on like this."

SA Grusing said Agents do not intend to investigate this indefinitely, but Barry is the best source of information versus other people who do not know.

Barry asked, "And what about immunity? Can you give me immunity if I sit and just open my life to you?"

SA Grusing asked immunity for what, and Barry replied, "I think in case somebody falsely convicts me, or something. SA Grusing said, "You won't be falsely convicted."

Barry was told if "something bad happened," Agents would argue to the DA that Suzanne had the affair and talked about antagonizing him starting May 5th. Barry asked, "She actually set a date?" Barry was told it was that week.

Barry asked, "Did she actually say to him that she wanted to leave me and be with him?" SA Grusing confirmed, and Barry replied, "She actually said that?" SA Grusing said Agents could show him the texts that she wanted to start a new life with him.

Barry said he had to get to work and asked Agents to check on his rifle scopes and tax paperwork, whether they could be returned to him.

**(March 5, 2021- Part 2)**

[In this interview, Barry asserted that Suzanne's phone should have been found, that he had an intuition about her affair, that he could not recall what he threw away on May 10th though he was shown photos, and that Suzanne was drunk when he came home Saturday afternoon.]

SA Grusing and SA Harris met with Barry at his Tailwinds worksite behind his condo in the afternoon of March 5, 2021.

When Barry is told that all of the people sent the Facebook requests said it didn't seem like it was Suzanne sending them, then Agents wonder if Suzanne was doing this just to make him mad. Barry said Suzanne has "never done that in her life."

When asked if Suzanne told him she befriended these people, he said no and then said, "But I have her phone. She gave me full access to her phone. She gave me the passcode- I mean, do you guys have her phone? Do you have her phone?"[64]

When Agents tell Barry they don't have her phone, he says, "Nobody found her phone?" and then, "I figured you guys had to have it." He then says, "See, that's, that's, that's really weird, because I thought from day one you guys had the phone."

When Barry was asked where he would look for the phone knowing where the bike and the helmet were, he said, "In between."

Barry talks about Suzanne's affair possibly getting out on social media and if it does, "…you know darn good and well what everybody is going to say. I mean, I don't know if you guys think it?"

Barry added, "But they're like, 'Oh, Barry found out she had a boyfriend and killed her.'"

He continued, "I mean, that's, that's what people say. And I'm, I'm hoping that you guys believe me that I didn't know that one bit until that day you guys came to my back yard."

Agents talk about some things related to Suzanne's seven trips and her behavior in Mexico that likely made Barry suspicious like when he wanted to see her phone, because he was not a fool. Barry said, "I had some intuition, but I would never think it was a physical thing."[65] Barry was told that doesn't make him guilty of her disappearance (Barry does not protest).

---

[64] FBI agents asked Barry about this statement on April 22, 2021 and he said he did not have Suzanne's phone or passcode, just her iCloud password.

[65] Barry refuses to tell Agents in subsequent interviews how long he suspected Suzanne was having an affair.

Barry is reminded of the argument that was recorded on the pen and Suzanne saying it was about money and asked what that was about. Barry said it was Suzanne's grandmother's money and explained that Barry and Suzanne had borrowed $100,000 from Suzanne's dad and that it caused family problems with Suzanne's brother. Barry said Suzanne wanted to pay it back with her grandmother's money, but Barry said he made a lot of money and he would pay it back.

Barry was asked about his phone pinging down by the river during the Facebook posts on Friday night and asked if he was outside. Barry said, "I could have been. I don't remember. I chase critters around the house all the time. There's a bear that got in the garage. He completely destroyed my garage. And I've been looking for him ever since he came in the garage. I wasn't going to shoot him, but I was just going to scare him off and uh, coyotes, are always outside."

Barry was shown a map printout of Hwy 50 near the Garfield area west of his Puma Path house and asked about where he turned around at Garfield when he left his house. He asks where his road is and is told that it is off the map. Barry said, "I can't tell you exactly where I turned around, but it was probably the first road or drive going into Garfield."

Barry said the reason he was watching where the elk go is because he hunts sheds and that while the bull didn't have its horns, it was a big bull and he figured that Barry could get its pattern then he could follow that pattern and find his horns.

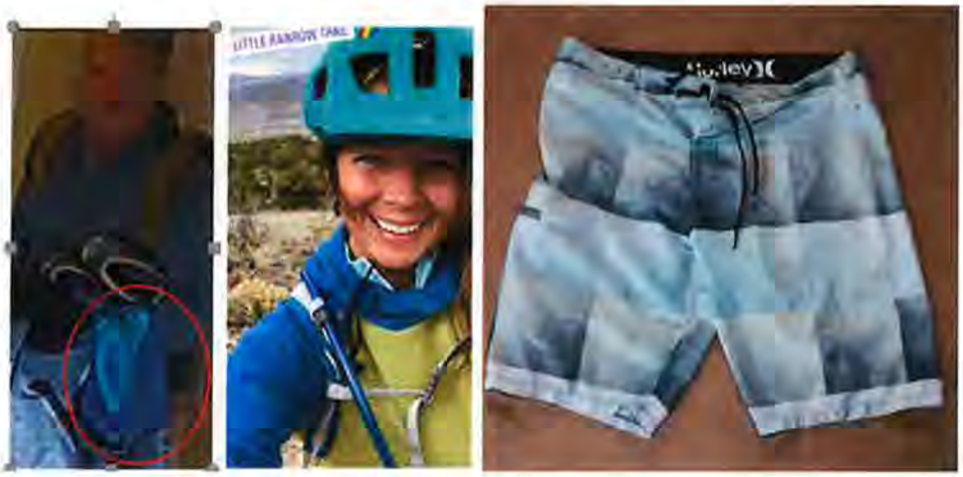
Barry talks about the county road where the helmet was found and said he was pretty sure he went past that one, because he was stilling looking at the herd.

[As Barry discussed watching the herd and its patterns and where he turned around, he was motioning several times back and forth with the pen from the road to the location of Garfield mine on the map.]

Barry was shown a photo of the RTD stop and asked about it. Barry said he pulled over there to GPS the job site. There was a trash can right there and he just took stuff out of this truck. Barry said whatever he threw away was probably just sitting right there on his seat. Barry said he couldn't tell agents what it was, but it wasn't worth anything. Barry says it was just junk, probably wrappers and cans. (Agents labeled this as Trash Run #1)

Barry was shown a satellite image of the south side of hotel where his truck parked. Barry said he remembers why he was there. Barry said he was just waiting for someone to come out of the door and go in and get a free breakfast. (Agents labeled this as Trash Run #2)

Barry was shown photos from video surveillance (pictured below) of him carrying things including boots into the hotel. Barry said he doesn't even remember carrying the boots into the hotel. Then Barry said he remembered that he took them into the hotel to take the laces out. Barry said the boots had holes in them, but he wanted to save the laces, so he took them in to take the laces out. Barry was asked about the blue item he was holding, and he said it looked like his swimsuit and asked if they got it from his truck. Barry was asked by Agents if he remembers what was in the garbage bag. Barry said it was probably his mail. Barry was asked about changing his shirts that day and he said he did so because it was hot.



Barry was shown photos from video surveillance and asked about his McDonald's trash run. Barry said he was pushing it down because the trash was at the top and he was pushing it down so it would fit. Barry was asked what the small item was that he was throwing away and he said he couldn't remember. Barry said he does this all the time and it is just him. Barry said, "I know it looks bad and it probably looked bad to Joe, but there's nothing there." (Agents labeled this as Trash Run #3)

Barry was shown a map of Men's Wearhouse parking lot and told that he stopped there. Agents asked if he took things to the dumpster there. Barry said, "Not to my knowledge." Barry was asked if he took things to a trash can and he replied, "I could've." Barry was told he was there for about 40 minutes and asked if he remembered what he was doing there. Barry said, "I think I was still cleaning my truck, umm, yeah, yeah I mean, like I said, I just uh, I would, I was probably getting crap out of my truck like I said, which I've done my whole entire life." (Agents labeled this as Trash Run #4)

Barry was shown the photograph of the binder he is carrying into the hotel. Barry said it was papers related to the job so he could study and prepare for the job. Barry was asked about changing from a black to a gray shirt. Barry said it was because gray would reflect the sun.

Barry said again that from what he has seen, Suzanne left and he wants to go to Mexico (to find her), adding that Suzanne doesn't have to go through a border and wondered if she had 70,000 dollars.

SA Grusing said if it wasn't Suzanne, the FBI would consider it. Barry said, "But she turned into a different person. She was working out. She was, she was never this fit. And this ballsy in her life."

Barry said her mind was altered from drugs and alcohol, adding that substances alter people's minds and that he is positive Suzanne's mind was altered. SA Grusing asked if her mind was altered Saturday afternoon when he came home, referencing Barry's statement of her drunk eyes in the photograph.

Barry said, "I thought it was, but I thought, this might be good, because it might make for a better night, if she's cut the edge off with something. So, I wasn't going to…"

SA Grusing says Barry wasn't going to fight her on it.

Barry said, "So, I wasn't opposed to that, that day and I surely wasn't going to bring it up. If I bring those things up, it just causes a fight. She'll start something, so just let it go."

**(March 10, 2021 Part 2)**

[In this interview, Barry said Suzanne might be in the river, described the elk's path across Highway 50, said if he "disposed of her" between Salida and Broomfield Agents would see evidence from his truck, discussed why Mallory's bed sheets make him "look bad," and that the tranquilizer dart evidence could be explained from him shooting two deer with a dart gun near his house.]

Barry met with SA Grusing and SA Harris at Fire Station 4, 2-150 La Plata Street, Poncha Springs, Colorado. Once seated, Barry asked about his scopes. SA Grusing replied that the scopes could be removed from the rifles, but if the Agents can clear Barry, he could get everything back. Barry agreed to wait and said if he was guilty, he would not be talking to Agents, adding, "Because I'm not stupid."

He said he has answered every question and wants it to be over. He commented that Agents sitting at his workplace makes him uncomfortable. SA Grusing said Barry does not return texts or calls, so Agents wait until he appears ready because he appears too nervous to talk. Barry said, "I think we've gotten through that," adding that he lost trust when "Joe and Derek turned on me."

Barry stated that Suzanne told Sheila about things that "has pitted Sheila against me." He said he thought Sheila would counsel her that "marriage is for life." Barry said he told Suzanne when they got married it was for life, specifically saying to her, "I'm a godly man. And you better make sure that you want me, because it's for life."

Barry said, "I don't understand, I mean, she's (Suzanne's) a good woman. You guys probably think she's a piece of crap."

SA Grusing said Agents do not think that and Barry said, "She's as good as they come. I don't understand what got her to this point."

Barry said he did not want to fight with Suzanne because of her cancer. He added, "The next night it would be like nothing ever happened. And she'd be wonderful, she'd make love."

Barry added, "We had a great night that Saturday before. We made love that night. There, there was nothing that happened at 2:30. I mean, I looked back. Nothing. We grilled, I grilled steak at probably five, six. We ate dinner. Went to bed. We made love."

He added, "I always fall asleep right away because I'm dead-tired from, from work. Surely, she stayed up, but I don't know (shaking his head). I don't know if she stayed up or went somewhere, and texted, or did something." SA Grusing asked where they had sex and Barry answered, "In the bed, in the master bedroom."

Barry then referenced the second Valentine's Day in a row when Suzanne "met this guy," when she said she was meeting her dad. Barry said he told Suzanne, "Honey, (unintelligible) I'm comin' to Florida. Let's just spend a few days." He said he went and they had an "unbelievable time. We had sex three times a day. She was incredibly romantic with me. She gave me the most beautiful card that was heartfelt."

Barry said Suzanne must not have been in her right mind to be in love with another man and treat Barry like she still loves him.

SA Harris told Barry that Suzanne's life with her lover appears to be more her true life than her life with Barry and that Agents did not doubt they still had sex, but she was placating Barry.

Barry was told Suzanne felt like she had to have sex with him at times.

SA Grusing referenced her music, books, drinking IPAs and the bike riding as being pieces of her new life with her lover – that he was encouraging her to find her true self and Suzanne was looking for a new life.

Barry asked, "So what's this guy's relationship with his wife?" He asked if the lover's wife was ugly and SA Grusing said she was not.

Barry asked for more information about the lover and SA Grusing told Barry he was not cleared as a suspect and would have to be cleared before knowing such things and getting guns back.

Barry said, "I would agree with that, but there's not one gun in that safe that's been fired for months." He added, "The only thing I've fired is my chipmunk gun and I guarantee you I fired that, even, be-, even after Suzanne went missing." Barry confirmed that was the gun he gave Agents.

SA Grusing asked Barry when he thought it was ok to stop searching for Suzanne and he replied, "Never." SA Grusing asked when Barry physically stopped searching for her. He said, "I searched for three, three to five months." SA Grusing asked Barry at what point he felt searching would do no good. Barry said, "I felt like she was gone. I felt like somebody, I really felt in my heart that somebody took her and left the area…And then, probably five months down the road, I thought she's in the river."

SA Grusing asked Barry what he did about searching difficult places, like mineshafts. He said, "We did. We searched every mineshaft in this area."

SA Grusing asked if vertical shafts were in the area, and Barry replied, "Yeah, there's one behind the house that's on the very top, but it's plugged by a boulder. They plugged it. It doesn't go, I mean it goes straight down and they plugged it." When asked if there were more, he added, "There's another one, but it's been blown up – by the house. I don't know of anything open by the house. The ones in Garfield are open, the ones up 240 are open."

SA Grusing asked if search and rescue covered those and Barry said they did not search much past the first day or go across the highway. He said, "And I was certain that first day that a mountain lion got her. I was certain of it." He added, "I've been hunting that lion for two years." Barry said he tracked the lion six times and knows his habits: coming down the hill behind his house, up the road, across the bridge, across Highway 50 and east across the mountain. He added, "I've seen him do it a hundred times."

SA Grusing asked Barry if the lion was seen by the helmet and Barry replied he did not know. Barry said he was told there was no blood evidence at the scene, but he and George said too many vehicles drove through it. SA Grusing asked how far the lion could carry Suzanne and Barry replied, "To the top, to the very top." Barry said that is the first place he looked because he has seen TV shows where lions dragged people up a mountain.

SA Grusing asked Barry how a lion would eat a person and he replied, "Lions go for the neck." When asked if the lions completely eat a person Barry replied, "He's not gonna eat her clothes. When a lion eats a deer, he's gonna (unintelligible) the fur." He added, "Her clothing should've been found."

SA Grusing discussed the initial response and lack of information law enforcement possessed. Barry was asked what he presently thinks happened to Suzanne and he said, "I think she left." He added the money is gone and he thinks "she left and something went wrong." Barry said she would not leave her girls.

SA Grusing asked Barry where Suzanne would go, if not to her lover.

Barry said, "She would be the kind of person that would say, 'I'm just gonna disappear. And see what happens and then try to start my life."

Barry said there is no way she cares more about "this guy" than about her girls. He added, "I just have no clue. I thought she was in the river." He said search and rescue assured him she was not there after they used poke sticks.

Barry stated, "At the end of summer I'm like, 'What if she's there? The whole time? What if she is there?' He talked about using an excavator from work and tearing up a beaver dam but needing a "240 or a 320" size excavator because of the hundreds of trees.

Barry asked, "Could she be there right now? Absolutely. I don't understand why they spent $140,000 digging up my job site – if they woulda put that money in the river, cleaning it and making sure the body's not there, that would've been put to good use." He continued that the neighbor who heard the machine was ninety years old and senile, and the contractor who worked at the job site asserted no work was done recently where the dig occurred. He said the media got a hold of that and "everybody jumped on, beatin' the freakin' crap out of me."

SA Grusing asked Barry if, after he looked at the bull elk, he continued past the exit to 285 to Denver or continued on Highway 50 into town. Barry said, "No, I went straight there." When asked how long he watched the bull elk and if it was walking along the highway, Barry said, "No, they crossed. I was trying to see where they were going up the mountain because that's where I was gonna look for his horns because they do the same things, they're gonna drop their horns in the same pattern."

He added, "They had already crossed. They were in the road when I stopped in the road before I got to fifty, they were in the road, crossing, and then they cross the road, and by the time I get up there, they're already crossin' the mountain. I mean, I don't stop on fifty, I keep going. I'm just watchin' to see where they're going. I get to Garfield, turn around, go right to 285." [66]

---

[66] Investigators have driven from the intersection of Highway 225 and Highway 50 to Garfield, a distance of 2.73 miles, an impossible distance to see an elk at or around 4:32 AM and follow it in a short period of time. Barry had about 30 minutes to head that way, turn around and head back towards Highway 285. Barry's truck was seen passing video surveillance on Highway 50 right near the junction with Highway 285 and then again just north on Highway 285 at around 5:14 and 5:16 AM.

Barry continued, "And the thing about it is, if I had anything to do with this at all, there would be, there would be evidence of me and my truck doing something with her between Salida and Broomsfield."[67]

Barry added, "And y--, if I, if, I had her, and took her to Broomsfield, and disposed of her somewhere between there, you guys would see that with my computer. You see where I stop. I told Joe every stop I made. And I know for a fact it, it had to line up with my computer. If you guys are that good at forensics, it had to line up."

SA Grusing told Barry that Agents could not see every location point when he was in the mountains which is why the bull elk story made sense. Barry said, "Yeah, (cleared his throat), I know that you had my truck- for several days. I know that you had my house. I know that you had her car. And there's just no possible way that you found any evidence in any of that 'cause it doesn't exist."

He added, "I know that you took my bed sheets. I know, I didn't even know until after the fact that Mallory's sheets were off her bed upstairs. I mean, what a coincidence. Her sheets are off her bed and then all of the sudden, it's like, 'That's where he did it. And the sheets are gone. He washed 'em. Blah, blah, blah.' I had no idea they were off. Suzanne was obviously washin' the sheets because Holly was with Suzanne[68] and Macy, and they were gonna stay there that night and Suzanne's takin' sheets off, and washin', gettin' things ready."

SA Grusing asked if Holly (Booten) was going to stay there and Barry said, "Yeah, they always, they always sleep together. Yeah, they always sleep together."

Barry continued, "So I didn't even know that those sheets were off the bed, but, Boom. That's makes me look bad. And I was not even aware of it, but I guarantee ya that there's no evidence on those sheets, wherever they're at. I don't know if you can have evidence when you wash them or not. I've never done your job, but there, I know for a fact that you guys have found no evidence on me doing any of this. It just doesn't exist – that's why I just don't understand how can it go nine months?"

SA Grusing said the odd thing about the sheets and the house was that a tranquilizer dart had been fired

---

[67] The evidence of Suzanne's bicycle disposal and helmet occurred near Maysville and Garfield, areas Barry passed before he reached Salida that morning.

[68] Barry is presumed to mean to say "Mallory" here where he says "Suzanne."

"in or around the house."

Barry replied, "And I, I have shot, and again I have told you I don't want to get in trouble with the DNR," SA Grusing inserted he was not. Barry continued, "I'm tellin' you, I'm telllin' you right now I've shot two deer with my tranq gun, 'cause I used to raise deer, and I collect horns, and I'll tell you exactly what I did."

He continued, "They're in the yard. They're in the yard. I shoot 'em, they go to sleep. I cut their horns off, and I wake 'em up, and they go off with no horns on their head, and I cut their horns."

SA Grusing said Barry's friends in Indiana talked about that and he replied, "And, and it's totally illegal. And, so I'm not gonna share that with the DNR, the way they are, and (exhale), they come arrest me. So, things like that, in my head, 'What should I say?' And nobody even asked me about that tranq dart, but you're gonna find tranq darts around my property because I've done that."

SA Grusing asked Barry when he last did that and he shook his head and replied, "I don't recall, but, it would be when deer had antlers, and that's usually until late April."

SA Grusing said that made sense because investigators could not explain a tranquilizer dart.

Barry said, "I'm just tellin' you right now, I'm a redneck. And, I'm, the first thing I thought of when I came here and saw deer in my yard with big horns, I'm like, 'I'm getting' them horns.' Not gonna kill it. Not gonna poach it. But I guarantee if DNR knew I did that, they'd slap my wrist pretty hard."

SA Grusing said Agents are not here for those reasons. Barry said, "I know and that's why I'm sharing this with ya. I'm just being open with you. I, obviously, things line up against me, coincidentally, or for some reason. I mean, I look back and see some things that happened and like, 'Gosh, that makes me look, that makes me, why would God allow that – those things in the situation – to make me look – like the sheets, the bed un-unmade, the…"

SA Grusing asked why those things made Barry look bad and he said, "Because it looks like if I did something and ripped the sheet and got blood on them and ripped 'em off and washed 'em – to me, lookin' at it through a detective's eyes, that would look a little suspicious."

Barry continued, "So, obviously I didn't, and just little things like that I'm like that's, and just like throwing my crap away, I've done that my whole entire life, and I told Joe, I said, 'I was in a hurry. I was gonna put it in the dumpster and I think the dumpster (exhale) you know, bulging anyway.' But, I had all this freakin' crap in my truck and I've done that my whole life – I see a trash can, I pull over, I throw something out. I've done it my whole life."

Barry continued, "So, whatever we have to do to get this over, I need it over, for me. I'm just, I need to move on, move forward somehow. Of course, what you told me about the affair broke me. I'm still broken about it. I will probably never get over that, but the good thing about that is it would allow me to move on. Knowing, if what you're saying is true, even if she comes back or even if we find her alive, she doesn't want me anymore anyway. So, why should I put this all of this, all of my heart, and my love into this relationship if she doesn't want me anymore?"

Barry continued, "I can't go on like this. This is no way to live. It's not fair to my daughters that I be so upset. But, you want to talk about the relationship, which I think is where we were when we left, I'll answer anything about Suzanne and I. But, obviously, she had two different worlds. I just can't believe what she's telling this guy and I can't believe what she's telling her friends and her family."

SA Grusing read the text of Barry's response on May 6th, saying Barry was "sorry things went the way they did," asking what he meant by "the way they did."

Barry said, "I don't recall that."

Barry added, "And I just, I know there was a terrible text by, and I told Joe about that."

SA Grusing said this was Wednesday and Barry said, "Yeah, but I thought it was Friday when I talked to Joe. I, I thought this happened Friday, so."

SA Harris asked if Barry knew what the fight was about and he said, "She was accusing me of having an affair and she accused me of having cameras in the house, watching her every move."

When SA Grusing asked if Barry had functioning game cameras, he said, "I had game cameras, I think all of them were in the safe, they took 'em all. I, the game cameras I had outside, sometimes I put 'em by the drive just to see if somebody's coming in and out when I'm gone. But most of the time I'm trying to get a picture of a deer, an elk or a bear. But, I had no cameras in the house. I've never used a camera in the house and she was just absolutely sure that I had cameras in the house."

Barry said he monitored the cameras with a "little SD card" that he could put into a computer. He added, "Yeah, and, um, even the outside cameras, she thought that, 'Oh you're watchin', or your girlfriend is watchin' you on the outside cameras.' I said, 'Honey, the outside cameras don't even work.' And, but she was just certain that if like, I was outside with her and doing something in the yard, she would say, 'I know she's watchin' you.' Just stupid stuff, and I'm like, that's why these, the only reason that these fights happen is because she's accusin' me. And I never understood them until now; she's accusing me because she wants to justify her relationship."

SA Grusing said Suzanne's affair did not start until 2018 and she suspected he was having an affair while they were in Indiana. Barry said, "It goes way back, but it had never gotten to this point where she was just, it's almost like before when she said it she wanted me to admit it and be done with it.

Barry continued, "And now it's like, 'Sh, I don't care. I got somebody. I don't care.' That was her attitude."

SA Grusing said on May 6th, Suzanne wrote in her notes that Barry accused her of "Hydro and boyfriend." After confirming hydrocodone was one of her medications, Barry said, "And I told you why I did that. I did that to make her to feel what it's like to be accused because I didn't believe she had a boyfriend. I mean, I've told you guys that since day one. You surprised the heck out of me, tellin' me that she's having an affair. If you would've said she's texting somebody and having an emotional conversational affair, maybe I could've - but physical? [69] She loves the Lord. She knows God's word. We, I mean, we gotta answer to the Lord when we do things like that and I…"

SA Grusing interrupted with Barry's earlier reference to King David's affair. Barry was told that Agents see bad things about people in investigations like this all the time, adding this was an intimate partner investigation from the beginning.

Barry talked about a couple from their church whom they grew up with, and the wife went off with another man, destroying the family. Barry said, "The thing about Suzanne is, I wouldn't think that she could ever destroy her family, cause we were such a close, we were very close. All four of us. That's why I'm like, there's, I mean, Suzanne couldn't do this, just knowing who she is, knowing our love story."

Barry talked about meeting Suzanne, talking all night, falling in love and having children. He spoke of the 2013 incident when Suzanne almost died from cleaning the shower with bleach and peroxide and the fumes interacted with the chemo and put her mind into "an anxiety mode."

Barry said he was a workaholic and a "hunt-aholic" and cheated her "out of what a woman needs emotionally." He said he was never home and worked daylight until dark, going "selfishly hunting."

Barry added, "She's the love of my life, she'll always be the love of my life. I've forgiven her for what she's done to me."

Barry added, "But I don't know if I could ever be with her again if she comes back, and I'm justified not to through this."

Barry said he has to trust God because God knows "more than us, and I can be angry with God and say, 'You can't take my wife. You can't take their mother.'"

SA Harris said Suzanne wrote in her notes she talked to Barry about divorce as early as 2019. Barry said, "I don't recall ever talking about divorce. I recalled her mentioning it in a fight, but when we're both sober and sitting down and having a heart-to-heart talk, I don't ever recall her telling me that she wants a divorce. Ever."

SA Harris explained that in 2019 Suzanne said Barry "won't hear" talk about divorce. Barry asked to whom Suzanne told that and Agents said it was a friend. SA Harris said she brought up the topic and said Barry "won't even hear it."

Barry said, "And I wouldn't. I mean, if she said, 'Hey, we're gonna have a talk about this tonight,' which she never did, I would say, 'I'm not discussin' this cause it's never gonna happen.'"

SA Grusing asked if Barry or Suzanne discussed such things with the girls. Barry said, "Absolutely not."

SA Grusing asked if the girls ever saw them fighting. Barry said, "There's a couple times where they saw us fighting but it was about the other woman thing, is when I was just fed up, and I'm like, one day I was like, they were both upstairs and I said, 'Girls get down here. We gotta have a talk. Your mom thinks I have a girlfriend. I don't. I don't know what to do.' And I drug them into it and it was the worst thing I ever did cause Suzanne, she didn't appreciate that, bringing them into that. And uh, but I was just, I was desperate. I needed help. I needed somebody on my side, and I drug them into it and it was a bad thing to do. And she never forgave me for that."

---

[69] In April 2021 interviews with the FBI, Barry asserted he did not suspect an emotional affair, though he admitted to Agents in February and March interviews he suspected such going back to 2019.

SA Harris said Barry did not want to hear about divorce; Suzanne was talking about civil separation. Barry said, "None of that, none of that, I didn't take any of that with a grain of salt that day - when she said that. There's no way I, in my mind, thought that she would sit down and say, 'I want a divorce.' That statement right there was in the middle of angry outburst via text. And I never understood it, now I do, but then I blamed it on alcohol or drugs or something in her system."

Barry added, "Because she would have these outbursts and I would come home and it was like nothing ever happened. It was like two different people. So, I understand, and I told this to Joe from the beginning, 'This looks bad.' When we had this fight, I thought it was Friday. That's another thing that I said that coincidentally looks bad, but that had nothing to do with anything. I mean…"

SA Grusing showed Barry deleted calls from his phone on May 4th, asking if he remembers why he deleted them. Barry said, "No, I don't recall deleting any calls. The only thing I deleted was texts because I don't want the girls to see them…But, I don't recall deleting calls."

SA Grusing showed deletions of calls to Dan Monex, Collegiate Peaks Bank and others, and Barry said, "No idea. Don't recall deleting them. If I did, it was just to clean things up, but…"

SA Grusing said Agents are available whenever to meet with Barry. He said, "Well I'm in a situation where I feel like I've looked bad because I've not reached out to you guys, but I've not reached out because of what everybody else is telling me."

Barry asked if the FBI was having the sheriff keep tabs on him because it seems to Barry that the sheriff drives by when Agents are in town. SA Grusing said Agents do not tell the sheriff what to do.

SA Grusing showed Barry a document with three calls from him to Gene Moorman on May 8th and 9th, explaining those were the only calls to Gene in Barry's phone logs. Barry said, "Gene and I would always talk," and SA Grusing replied these were the only calls on his phone. He replied, "To Gene? Well, Gene and I talked quite a bit. Well, here's the deal, usually, it's him calling me."

Agents explained the last call happened on the way back from Moonlight Pizza on Friday, May 8th. Barry said he thinks that call was him telling Gene to tell his son that all the money was paid back.

SA Grusing placed a page documenting Barry's use of "Airplane Mode" on his phone in April and May 2020, saying Agents thought he was keeping Suzanne from seeing where he was, and it did not appear accidental. Barry asked, "That (UI)?" and SA Grusing said it was a record of his use in 2020, since April 15th.

Barry said, "Oh, you're talking about – not that day, you're talking yeah, yeah, I did that, to let her not - cause she tracks me everywhere I go." (See Attachment 1- End of Affidavit)

SA Grusing asked what events made Barry decide to turn it on and off. He said, "Just, not that I'm doing anything wrong, but just to try to get her to say, 'Oh, I couldn't track you,' or just (shook his head side-to-side), I."

Barry added, "Well, she would show up at my job sites, in a rage, thinking that I was having sex with one of my clients." He clarified that incident occurred in Indiana, saying it made him look bad in front of his clients. Barry said, "I know for a fact that if you guys could find out what she did, there's no doubt in my mind you could've found out if I had a girlfriend. True? Nobody, right?"

SA Grusing said he did not bring the photos of the sex site searches that Suzanne was supposedly framing him on. Barry said, "I never went to a site, a porn site, I'm, I'm against watching porn. I do not, I do not watch porn (UI). Have I looked at a naked woman on one of those sites? I have before. But if there was ever a site that was searching for a woman, it was not me."

Barry said, "I've never even inappropriately texted another woman since I've been married, probably since I've been in love." He said there is no proof out there he did so.

Barry said he can see Agents are genuine and honest and he appreciates the work for him. He added, "And I just would beg whatever you could do to clear me."

SA Grusing said Agents want to clear him and find Suzanne. Barry was told that the FBI researched Suzanne as if she was a wanted fugitive, to include facial recognition, and have not found Suzanne.

Barry said, "I just think if something happened and she left, that something went wrong. And how could we know that?" SA Grusing talked about the difference between a fugitive trying to disappear from someone with Suzanne's lifestyle disappearing.

Barry asked, "Is suicide an o—, would that be?"

SA Grusing said investigators believe her body is close to where the bike and helmet are.

Barry said, "Joe, Joe said that you had planes that could detect disturbed soil. I mean, didn't they do that?" SA Grusing said the mountainous and rocky terrain makes that method difficult.

SA Grusing talked about mine shafts and Barry shifted in his chair. The possibility was posed to Barry that she could not be seen in one of those, also considering the staging of the bike and helmet.

Barry said, "If that is the case, then why wouldn't we have as many thousands of Agents as they've said has been on this case, why don't we have thousands of people doing a grid search, looking for any, anything that could be – a dig site, a bury site, a piece of clothing?"

Barry posed scenarios of a drifter taking Suzanne or a hit-and-run. He continued, "That's a scenario that's possible. What if a lion grabbed her? Took her up, I don't think, I've never heard of a lion consuming a whole human body. Maybe it's happened. I don't know, but the lion's not gonna eat the clothes. So, those would, should be found if it was a lion."

Barry agreed to meet again to finish answering Agents' questions for the case audit.

**April 5, 2021 (Part 1)**

[During this two-part interview, FBI Agents placed 26 exhibits in front of Barry, including photos Suzanne sent to Libler, cell phone data, search photos, timelines of his activities on May 9th and May 10th, and surveillance photos.]

At approximately 10:25 AM, SA Grusing and SA Harris contacted Barry at his residence in Poncha Springs.

Barry said, "Mentally, still kinda in that, just confused mode about – and I've shared this with you guys, about, I was one way and then when you guys told me about the affair, just did a 180 in my mind. I don't even know if it's a fair way for me to think sometimes."

SA Grusing asked what Barry meant by a "fair way to think."

Barry stated, "Just, I don't think about her the way I did before you told me that. Obviously, I think any guy would, would say that. I love her, I forgive her, but the betrayal, is just harder… And I never was unfaithful during my, on my part, so, I just don't understand it. I want to blame it on the cancer, the chemo, the drugs, the alcohol, and if I could blame it on that I would feel better…I mean, I don't even think the girls would talk to her if they found out she did this." [70]

SA Grusing asked about the time when Barry texted Macy in Mexico about Suzanne not being the one receiving texts from Macy.

Barry replied, "Well, Macy had been, she had witnessed that once before, at the house, where it was a time where Suzanne was just really banging me up about me having somebody. And I was kind of at my wits end, and grabbed her phone one time, and, and uh, Mallory was at school, but Macy was there.[71] And I just let Macy know, I said, 'You need to come down and hear this.' I said, 'Your mom thinks I'm having an affair…There's no way that I've ever done anything, and like I told you guys before, that was the only time we ever had arguments."

SA Harris said Agents are concerned about Barry's end-of-life planning steps, to include selling off assets and his statements of not being around anymore and his weight loss. SA Grusing added that Barry's behavior with Shoshona, to include pictures of them taken at the Antler's Hotel, appears concerning.[72]

Barry said, "Well, I just, I'll tell you right now, that she is a special person in my life and it's, I've told you before she is a, a dear friend. There's nothing sexual going on with her and I..."

Barry continued, "And I didn't meet her until October 25th. The first time I ever even saw her face to face and talked to her was October 25th. Barry said by meeting Shoshona, God answered his prayer of, "Please give me something.'"

He continued, "There's no--, my daughters know about Shona. They know we're friends. They know I go over there…And, uh, yeah, I've been there late at night, but we're talking and we're just helping each other, and uh, and that's it."

SA Grusing addressed the end-of-life planning again and Barry said, "No, I'll be honest with you guys. And I've shared this with you, I've, it's, this thing has been, I'm a tough guy. This has been painful to me. And, just being done with it, I've definitely thought about it. I could never worry about that. I know that the selling of the assets is just for me to get out of here. I'm getting' out of here." [73]

---

[70] At the end of this interview, Barry tells Agents he has told the girls about Suzanne's affair.

[71] This is the second time Barry admitted to grabbing Suzanne's phone, with the other being the time in Mexico.

[72] Barry's relationship with Shoshona Darke is documented following this section.

SA Grusing discussed the goal of Agents to complete the audit, with the gaps that exist and intention to complete the investigation through the best means possible. Barry asked, "And you assured me that if we get (UI) for you guys, you'll clear me?" SA Grusing agreed and Barry continued, "I just need to get, to move on from this to start healing."

(Discussion of Exhibit 1)

SA Grusing introduced the first page, containing a photo of the surroundings of Barry's house and titled, "Sheila's visit in 2019." When asked what was going on, Barry laughed and stated, "And I told Suzanne this and I don't know what she told Sheila, but I was in Arizona hunting and I had been camping for seven days, smelled like crap, looked like crap. I thought they were out in town eatin', and I just wanted to make sure they weren't in the house, and I just wanted to get in there and take a shower. And I looked and it didn't seem like anybody was there. Just went back and I went up on the hill and I looked, I didn't see anything. And they were in there and I guess they called the Cushmans, and then Pete comes flyin' out with his pistol."

Barry continued, "I smelled like freaking crap and looked like crap," and he wanted to see if they were in the house. SA Harris asked if Barry pulled his vehicle into the driveway and he said, "No, I pulled into um, uh, Betty's drive over here. In the cul-de-sac," as he pointed towards the top of the page.

SA Grusing asked why he parked away from his house and Barry said, "Just because I wanted to see if they were there." He said he could shower somewhere else if he needed to, but, "I haven't seen my wife in seven days, I'm gonna shower. I didn't want Sheila to see me like this. That's all I was doing."

SA Grusing said Agents were wondering if Barry suspected Suzanne was at the house with her lover.

Barry replied, "No, I knew Sheila was there." When SA Grusing repeated, "You knew Sheila was there," he said, "Absolutely, yeah, absolutely." (See Attachment 2)

---

[73] Barry has articulated numerous times he has considered suicide, has liquidated his assets and plans to leave town.

(Discussion of Exhibit 2)

SA Grusing told Barry that Agent Derek Graham previously reviewed with him some of the items on a list made by Suzanne, last backed up on May 8th. Barry was asked if Suzanne ever went through this list with Barry. He said, "No, but there's things that she would throw at me when she was accusing me of doing something, so, if you want to go through that." SA Grusing said Agents would like to discuss a few items but not the entire list.

Barry was shown the line, "Can't be healthy and stay in this relationship," and asked if she told him that, to which he replied she did not. SA Harris told Barry about the recording from the pen when Suzanne said Barry controlled what she could eat or wear, and Barry interjected, "But I've never done that. I've never controlled her like that."

He added, "And there was one time where we did get into a fight, where she said, 'My cancer came back because of you. The stress that you're putting on me,' and she did blame that on me during an argument."

SA Grusing asked if that argument occurred here or in Indiana and Barry replied, "I believe it was here, yeah."

When asked how he responded to her, Barry said, "I'm like, 'There's just, how can you say that?'" He added, "Huh, how can she say these things about me if sh--? I never understood it. Till now, now she's got a lover. Well yeah, she's gonna try everything she can to get friction between us."

SA Grusing cited the May 6th text from Suzanne the marriage was over, and Barry's response that he loves her and was trying to control his "hurt heart." SA Grusing described Suzanne wounding him deeply and him trying to move forward.

Barry said, "Yeah, the wound is, is her falsely accusing me. And I, I just never understood how to handle that. I can't prove anything to her, but you would think after 32 years, all the dedication and love that she would trust me that I'm not gonna lie to her about it."

Barry stated, "And if I did have a, a woman, and, and I wanted to get it off my chest and get it, get counseling, and get, move forward that, I would probably do that with her because I loved her. If I made a mistake, it was a mistake."

Barry added, "But I didn't, and I just couldn't get it in her head."

SA Grusing interjected to point to the "Knew I was looking at phone in bonus" line from Suzanne's grievance list and asked Barry about that. He stated, "She thought I had cameras in the deer eyes of my mounts. She thought there were cameras in there, and I threatened to rip 'em out and prove it. I didn't want to tear my deer mounts up, but," SA Grusing interjected to ask if Suzanne talked to Barry about him seeing her on her phone.

Barry said, "Yeah, I've never, I've never seen anything on her phone that would, just divulge what she was doing. Never."

SA Grusing asked about the May 6th texts when Barry told Suzanne, "I'm sorry that things went the way they did." He responded, "The argument."

He continued, "And I said this all the time to myself, 'Barry, you need to just, you do not need to get fired up and just show her love."

Barry stated, "So with Suzanne, that's what I was saying through this thing. I'm like, 'Barry, you gotta love her. Just show her love. Don't get, let her get you fired up and get into an argument."

SA Grusing reviewed the Wednesday morning text with Suzanne and Barry's responses, then asked if the argument happened before he went to work. Barry said, "No, I think it - it was during work. I was actually on the bobcat working here, texting her, while we, and now, I didn't understand it that morning, but I do now. I mean she was trying…to…m-make me do something, or make me leave her, or something, because of this guy."

SA Grusing asked what Suzanne said that morning and Barry asked, "Via text?" He sighed and said, Suzanne was accusing him of being with a woman.

SA Grusing asked Barry since Suzanne had a lover for two years at this point, why she should care if he had a girlfriend. He said, "The only thing I can think of is because it would justify her thing to the girls." SA Grusing mentioned divorce and Barry said, "Yeah, it would justify her divorcing, if that's what she wanted. I mean, I, or it would justify her having her affair if she thought in her mind, which, there was sometimes where I truly believed that she really thought that. And I thought that her mind just went crazy and that place, but now that I found all this stuff out, I'm thinking she did that purposely to try to manipulate the situation with her family."

SA Harris said Suzanne thought Barry was having an affair at one point. Barry was asked what her "distant unlovingness" from his text to Suzanne meant to him.

Barry stated, "Just being cold towards me. I mean, I didn't understand it at the time, but now, if she was in love with someone else, and didn't want me, I – it makes perfect sense now. That she was just being distant." SA Harris asked if he felt that for a while.

Barry responded, talking about Valentine's Day in Florida being "amazing" and "looking back, she'd talk to this guy and she'd get a different face on, and then be cold, and then she would come to her senses…"

He continued, "I just blamed it on her cancer; she's been fighting this in her mind since we left Indiana because that's when she was diagnosed. So, I, I didn't wanna ruffle any feathers during her treatment, but it was hard for me to just show her love and take care of her during this time and not get my feelings hurt – when she was cold, or when she did something, drugs or alcohol…"

SA Grusing asked Barry if he bought a VPN on Mallory's credit card, reference Suzanne's note, "Bought VPN security using Mals name/card?" [74]

---

[74] Virtual Private Network allows users to create a secure connection to another network over the Internet.

Barry said, "No. If I did, it was an accident, um, and I think I told, and I don't even know what that is, but I think I told Mallory and mom that I was trying, somebody, I think somebody called me about fraud. And said, 'You need this to protect yourself.' And, I, if that's what you're talkin' about."

SA Grusing said the purchase was in February 2020, and Barry said, "Yeah, if that was it, I thought I was buying fraud protection. And I didn't know what I was buying, but obviously, if my memory recalls what I was buying right, I think Suzanne thought I was doing something, you know, secretly. Which I wasn't."

SA Grusing asked about Suzanne's note, "Bedroom profession about marrying, having babies," in reference to someone else. Barry laughed and said, "No, we was having sex one time and I said it to her. I just, it was, it was a, just in the heat of the moment in a sexual frenzy, I'd said it directly to her. I said, 'I want to marry you and have babies,' but she thought I was talking to my hand, this woman that's in my hand in a chip."

SA Grusing addressed Suzanne's complaints regarding security cameras, asking Barry if he removed the DVR or recording device for the home system – that wires seemed disconnected.

Barry said, "I don't remember, and I would almost bet a hundred thousand dollars that she took 'em out. Um, they never worked. Uh, when we got there, they did for a little bit and I hired a company to come and I don't know if they didn't work because of her sabotaging them or what. But I could care less about 'em, so it didn't matter to me, so."

SA Grusing asked Barry if he could use his phone to see the cameras footage, and he said, "Well, that's what I do with my door security. I just got the alarm set so if somebody comes in, they think the cops are coming but it's not hooked directly to a company."

SA Grusing asked Barry if he synced the cameras from his house to his phone.

Barry answered, "I don't think I could ever get 'em, and I thought it was because of the uh, bad reception, the cell service in the mountains…So, after everything happened, I could do that, but I couldn't always get 'em on my phone because of the cell service, but sometimes I could."

SA Grusing asked, "Sometimes you could?" SA Grusing and SA Harris asked Barry what wireless service he used to send the signal from the cameras to his phone.

Barry said, "I didn't know if it rou--, happened through Hughes Net, was our Internet provider, I didn't know. I just know that when he, the new guy, put the new ones in, he showed me the app."

SA Grusing asked if Barry could get the camera feed sporadically.

Barry said, "Yeah, I could never open 'em when I just wanted to. It just seemed like sometimes they would open, sometimes," SA Grusing interjected, asking Barry what app he used. Barry replied, "Uh, Luna. I think Luna, yeah."

Barry stated, "Under my best recollection, all of my cameras were in my safe because I never used cameras in hunting season. Every once in a while, I'd put one on the driveway just to see a car coming in and out, and uh, but, uh."

SA Grusing said Agents tried to find Barry chasing the chipmunks on the cameras recovered and could not. He said, "well, I don't think any cameras were there. They were in the safe." He added, "Everything was in the safe, they took everything from the safe."

SA Grusing asked Barry how he knew the chipmunk was outside to chase it that day, and he said, "Oh, they're always out there. That's just what I do. I mean, I've shot 85 chipmunks at my house. And when I'm bored, I shoot chipmunks."

SA Grusing said, "Right," and asked if the chipmunk gun was in the car or truck with him and he said he did not remember.

SA Grusing noted from the evidence it appeared Barry made it from the garage to the porch in seven seconds and asked Barry if he remembered where the gun was.

Barry stated, "I don't recall. It coulda been in the truck. It might've been, but I don't recall."
SA Grusing asked if the scope was mounted on the gun at the time and Barry said, "Yeah," nodding his head.

SA Grusing asked Barry what he did with the chipmunk after he killed it and he said he either threw it up on the hill, where the crows come and get them, or down by the river.

SA Grusing asked Barry about Suzanne's statement, "Just wrestled free," and Barry said, "I've never constricted her with my arms (UI) never." He added, "And I if, if we were ever in an argument, I would push up against her, maybe, and then she would maybe slip around me, but I have never grabbed her and constricted her. And I told you the one incident where I struck her. That was the only time in my entire life where I ever did anything (UI). So, if she's saying there was anything physical besides that, it's absolutely one hundred percent not true."

Barry was asked about "Mallory's sheets being a free-for-all" statement by him being related to a tranq dart being used. Barry asked, "In the house?" SA Grusing said it was unknown if it was used in the house, then asked if it was related to the sheets on Mallory's bed.

Barry said, "Absolutely not. I told you that what I do is I will open that back door and I tranq a deer in the backyard that's sittin' there eatin' my grass. And if there's any tranq dart anywhere it's from one of those (UI)."

SA Grusing said the evidence of the tranq dart was found inside the house. Barry replied, "Yeah, or I, I've shot deer from that little breezeway from between the garage and the laundry room, out that back door." [75]

SA Grusing asked about the back door and Barry said, "The back door is outside the kitchen window where the bird, uh, bath is. Yeah, yeah, if there was a tranq dart out there or outside or in the house it's from me shootin' deer."

(Discussion of Exhibit 3)

SA Grusing showed Barry an exhibit labeled "12 Consecutive Calls (May 9th)" and explained that investigators thought Suzanne may have disappeared Friday night until seeing the texts between her and her lover. Barry was told Suzanne's thinking at this point in the marriage was summed up by the May 6th text and opposed to Barry's assertions. SA Grusing said that from 2:47 PM on Saturday forward, she was not responding to her lover.

---

[75] The breezeway is located directly beside the lawn chairs where Barry earlier said Suzanne was sunbathing when he came home at 2:44 PM, when she provided Jeff Libler with her last proof-of-life.

Barry said, "That's because we were together. And we had talked about having a good evening together and putting phones down."

SA Harris explained how investigators looked at evidence and statements, considering people's biases versus the lack of bias from evidentiary items like cell phones and telematics. When things don't add up, investigators consider the bias component and most likely side with the evidence.

SA Grusing told Barry that investigators want the truth from him even if it does not look good for him. He said, "Mhhmhh (affirmative)." Barry was told that he, like many in his position in similar investigations, is hesitant to talk about Saturday afternoon because he thinks Agents would rush to judgement and say he did this. SA Grusing said Suzanne's phone was either taken or shut off, not under her control, on Saturday.

Barry said, "Well, that didn't happen. I didn't take her ho--, phone that day. I didn't know she was communicating with somebody, but we did discuss having a good evening together and turning phones off. And I, maybe I put mine in Airplane Mode instead of turning mine---I don't remember what I did."

SA Grusing said Barry took his phone out of Airplane Mode at 10:17 PM.

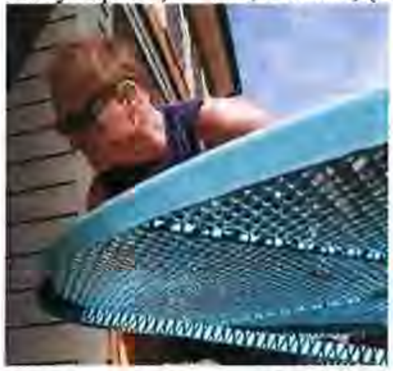
Barry asked, "That night?" SA Grusing confirmed, "That night."

Barry said, "Or she did." SA Grusing asked, "She brought yours out of Airplane Mode?"

Barry said, "Yeah."

SA Grusing said that would be odd because Suzanne's phone had no activity.

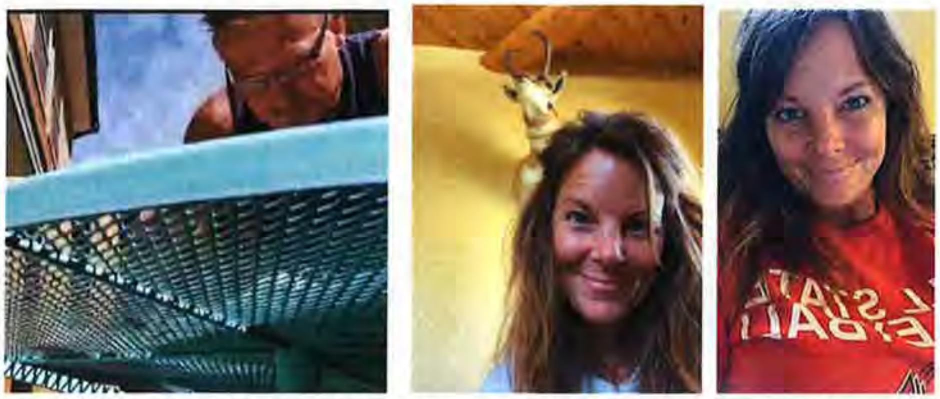
Barry replied, "Yeah, I'm not, (UI), I ju--, I just, I don't recall taking it out of Airplane Mode."



Barry stood up and walked towards a cell phone that was charging. (The phone rang about five minutes previously.) He said, "Let me make sure that's not my work calling."

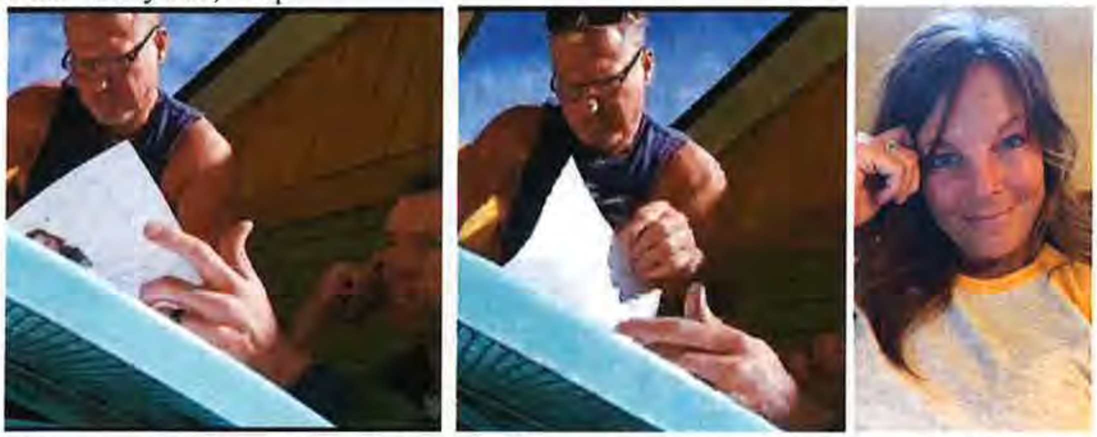
(Discussion of Exhibit 4)

SA Grusing turned to communications between Suzanne and her lover, "Fred." Barry was shown the photo of Suzanne dated April 14, 2020 and asked if he thought she looked high. He said, "Yeah." SA Grusing clarified, "She looks intoxicated to you?" Barry stated, "Yes. Do you mind if I read?"



Barry asked, "Is this him or her?" Agents explained the messages and photos were Suzanne's sides of the texting to her lover. After reading a few pages, Barry said, "Yeah, she looks intoxicated on every picture I've seen so far."

SA Grusing pointed to a photo of Suzanne wearing a red shirt on April 18, 2020 and asked, "That one?" Barry said, "Yep."



After continuing to read through the texts, Barry said, "She's sayin' she's wearin'?" He was referencing the 04/21/2020 photo of Suzanne wearing a yellow and white shirt with her text, "Thanks baby. I wear it for you."

Barry stopped reading, sat down and Agents asked if he had thoughts. He said, "That's pretty hurtful."

(Discussion of Exhibit 5)

Barry was shown a photo of papers for the Broomfield wall and SA Harris explained the photo was from a bathroom drawer. Barry said, "Yeah, that's probably my side of the bathroom."

SA Grusing asked if he came back from the site and put those in the drawer. Barry said, "I had different copies." He added, "That was the original copy they gave me, like when we first was looking at the job."

(Discussion of Exhibit 6)

SA Grusing showed Barry a photo of a .22 round in his bedroom, asking Barry if he knew where it was from. He said, "Hmmph, no, I don't." He guessed it came from his pocket when Suzanne was folding laundry.

SA Grusing showed Barry a photo of damage to the door frame of their bedroom, explaining the prior owners said it was not there previously. Barry was asked if that was the result of an argument or him being locked out. He said, "I have no idea what that's from." When asked if he knew it was there, Barry replied, "No." (See Attachment 3)

SA Grusing showed Barry a page showing friend requests on Suzanne's Facebook on Friday, May 8th and asked him if he was responsible.

Barry said, "No." He added, "I never did anything on her Facebook."

SA Grusing said by this date in May, Suzanne had the text fight with him, and they were accusing each other of having lovers. Barry was asked if he was sending the requests to see if she had boyfriend.

He said, "Absolutely one hundred percent no. No, I absolutely did not. I never went into her phone, into her Facebook. Ever. The only time I touched her phone was in Mexico when I thought she was secretly doing something – I think I told you that story, and she said, 'Here,' and gave me, and, 'You can look.' And she gave it to me and let me look cause there's no way I could find out what you guys found."

Barry continued, "And I went to Snapchat and I looked through all of her Snapchat people and I looked through all of her text people, and I didn't see anything and I gave it back to her."

SA Grusing asked Barry about Suzanne's list "Chased me around resort and threatened" and "Took Phone," if those occurred at the same time.

Barry replied, "Yeah, that's the sa--, that's, I don't remember chasing her, but I maybe walked behind her. (UI) wouldn't chase through a resort, but I was wanting her phone and, that's when I got it."

SA Grusing returned to the Bobby Huff and Facebook requests, confirming it was not Barry and he said, "No, absolutely not."

Barry continued, "If you look at my Facebook account, you'll see that I've never communicated with anybody, maybe a high school friend here and there, but never any of these women I don't know. Never had communication. And, you know, she was bothered by that and I said, 'You know, if you want me to cancel it, I'll just cancel it.' And I ended up just canceling it and it wasn't worth me having to fight my wife about it. And we've talked about Facebook before because we had a friend's marriage blow apart because of a Facebook contact with an old boyfriend, and I said, 'I just don't think it's good for us to even have it.' So, obviously, look what happened."

Barry continued, "She had it. Contacted somebody and here it is."

SA Harris asked Barry if he had any thoughts now of why she did those friend requests. Barry said, "I just, 'cause she would probably know that, that I would get upset if she would friend men. And she's probably, from what everything we've talked about, in a state of mind where she just don't care anymore about what I think."

SA Grusing asked if Suzanne would know Barry would see it and he said, "Probably not." SA Grusing questioned why she would do it to upset Barry if she did not think he would see it. Barry said, "I don't, I think she knew I just didn't touch her phone. I mean, maybe she thought I did, but."

SA Grusing said it seemed like she set a trap for Barry and he said, "I mean, it sounds like that to me. I don't think she did it for – I don't know why she did it but I don't think that she would think that I am gonna look at her Facebook account because I just don't do it."

SA Grusing said Barry told Agents prior that their phones were tied together through Apple and he had the main, Barry interjected, "Yeah, but she changed hers. She got her own private i--, and obviously now I see why she did it, for this boy."

Barry added, "But, yeah, she, she had her own Apple ID and password and stuff, I knew nothing about."

SA Grusing asked Barry if he knew by now who Suzanne's lover was and he said, "No, I'm still in the dark about that."

SA Grusing asked if he cared at this point and he said, "Well, I wanna know. I'm afraid, I'm afraid of doing something I'd regret, not, not, but I would not kill the guy, but if I would see him I would probably hit him pretty hard in the nose."

Macy came home and Barry asked to continue the interview at the fire station.

At 11:41 AM, Agents followed Barry inside the station while he spoke on the phone. While being seated, Barry said he was working on a project at the river property.

SA Grusing said investigators were trying to determine if anyone, independent of Barry, could provide a last proof of life of Suzanne.

He asked, "What about the two people that saw her Sunday?" He added, "I just heard there were two people," SA Grusing interrupted, saying those leads had been covered.

SA Grusing told Barry that after 2:44 PM on Saturday, no other person besides Barry could say Suzanne was alive. Barry was asked if he could try working backwards through the events from Sunday morning to Saturday afternoon to see if more leads could be developed. SA Grusing asked if the last thing Barry remembered about Suzanne was hearing her breathing.

Barry said, "No, last thing I heard her do was snoring." He added, "Lightly snoring," and SA Grusing asked if she was in bed. Barry said, "Yes."

SA Grusing asked where Barry was when he heard her. He said, "I was going from the bathroom to the kitchen just 'cause I get ready in the bathroom."

Barry was asked the last time he saw or heard Suzanne prior to that, and he said, "Just probably before we went to sleep. After we had sex." SA Grusing asked what happened before that, and Barry said, "Before that we had dinner." When asked where he sat, Barry said, "At the bar."

Barry was asked what he ate and what she ate. He said, "Uh, we split a steak 'cause she never eats a full meal."

When SA Grusing asked what else he or she ate, Barry said, "I don't recall."

SA Grusing asked, "Before that?" Barry said, "Before that, I think um, it had to be when I got home from doing my bobcat with Crib. And she was outside, laying out in the sun."

He added, "I think I sat out there with her. I don't know if that's when I did the chipmunks or, when the, did the chipmunks before I went to Crib, I don't recall (unintelligible – UI)." [76]

SA Grusing said because of Barry's phone activity, the chipmunks would have occurred after the Crib trip.

Barry stated, "Ok, then the chipmunks, she was layin' out, I was lookin' - I probably went to sit with her while she was laying out, seen a chipmunk and got my gun and shot the chipmunk."

SA Grusing asked Barry to work forward from the chipmunk and Barry said, "I truly don't recall that."

SA Grusing told Barry that on that Saturday at 11:00 AM, he told Morgan Gentile he was planning to take a hike or bike ride with Suzanne, but now he was unsure if his Fooses hike was that day.

Barry stated, "I've not recalled what day that was, it coulda been Saturday, but I just don't recall it." He added, "But I know it was in that probably three-day period. I do remember that much, but it coulda been Saturday, it coulda been Friday. I just don't (UI) recall."

(Discussion of Exhibit 8)

SA Grusing showed Barry a photo of a Google Earth image around his house and results of the telematics of his truck from 2:47 PM until 9:25 PM on that Saturday. SA Grusing asked Barry if he was preparing for his Broomfield trip.

---

[76] This account of Suzanne laying out in consistent with her photo to Libler at 2:03 PM but counter to Barry's previous assertions that she was laying out when he got home at 11:30 AM.

Barry said, "Yeah, just (UI), packing clothes and tools and stuff."

SA Grusing asked Barry if he wanted to review the times on the sheet, explaining he did not have much time to cook steak when his doors were opening and closing. (See Attachment 4)

Barry looked at the sheet and said, "And I was grilling the steak outside and probably doing things in my truck at the same time. I mean, I can assure you we grilled steaks and ate steaks (UI) that night."

Barry added, "I mean, you should've seen the dishes. Did they see the dishes?"

SA Grusing said Agent Graham found one set of dishes was used. Barry said, "We just shared (UI) the same plate."

While Barry was reviewing the telematic times, SA Grusing asked, "You were guessing sex happened what, do you know when?"

Barry stated, "I know it was after the steaks and before I went to sleep."

SA Grusing asked if there was a gap, possibly an hour or two in between, and Barry said, "I don't remember."

SA Grusing said Agents were trying to fill in - and Barry interjected with, "I wanna help you guys, I wanna help you guys get this clarified. For your sakes. And for my sake. I, to this day, don't even remember taking my bobcat to town to Crib to do that Saturday. I don't know why that is gone from my memory, but I just don't recall it."

He added, "And I told Derek and Joe that same thing, I said I, because they were beatin' me up on that time frame, and I'm like, 'I don't recall that. I don't even recall that.' And I, I know that I went through a lot of trauma before those questions, uh, emotionally and mentally, and maybe that was it, but I, you know, I got a pretty good memory."

SA Grusing asked Barry when that last time he saw Suzanne was that night, since he only heard her snoring Sunday morning. He replied, "I would say, between eight, eight and nine. If I was guessing."

SA Grusing asked if she went to bed nude or with pajamas and Barry stated, "No, she never sleeps in the nude. I don't know if she was nude, after, when we had sex, but I don't know if she, what she put on when she put it on, but she always puts stuff on. She doesn't sleep in the nude."

SA Grusing asked Barry when he last saw her and he answered, "Probably during sex." He added, "Cause like most men, I probably fell asleep. Pretty soon after that."

SA Grusing said that from the truck activity, sex must have happened after 9:25 PM.

Barry said, "And it could've been, depending on the, the light of day, then. It was May, so, it's still, I mean right now I see it's getting lighter and lighter, so, I'm just kinda basing off light instead of clocks – not (UI) clocks."

SA Grusing asked if Suzanne seemed out of the normal regarding their sex that night, considering the affair and fights that week.

Barry said, "No, I've never had a, had a feeling that anything was different in our sex life. Never."

SA Grusing referenced Barry's phone function of Airplane Mode being on at 2:47 PM and off at 10:17 PM on Saturday.

Barry stated, "And see, I don't recall that. And I think I told you that I don't recall that. And I'm wondering if that coulda been her."

SA Grusing told Barry his phone was back in Airplane Mode at 4:32 AM Sunday morning, asking if he noticed that and noted Suzanne was not awake.

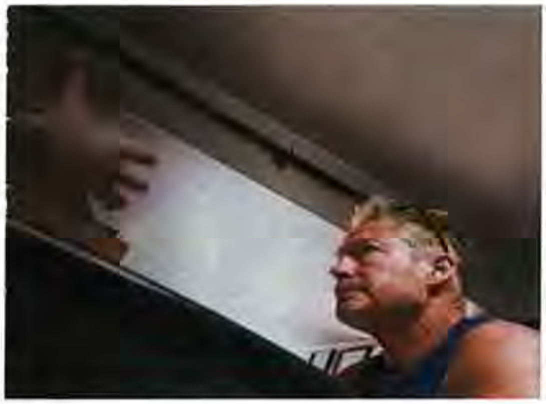
Barry shook his head and said, "I just don't recall." He added, "Yeah, I don't recall any of the Airplane Mode thing."

He continued, "Not saying that I didn't, I could've, because we always talk about when we're gonna have an intimate night, turning the phones off. So, but, I just, I don't recall that."

SA Grusing asked about the 4:32 AM Airplane Mode function, while Barry was preparing to leave to Broomfield.

Barry stated, "I know that I could've been in the shower, and she could've gotten up and turned it back on – if she had turned it off. Easily coulda done that, 'cause my phone is not, is not with me in the shower."

(Discussion of Exhibit 10)



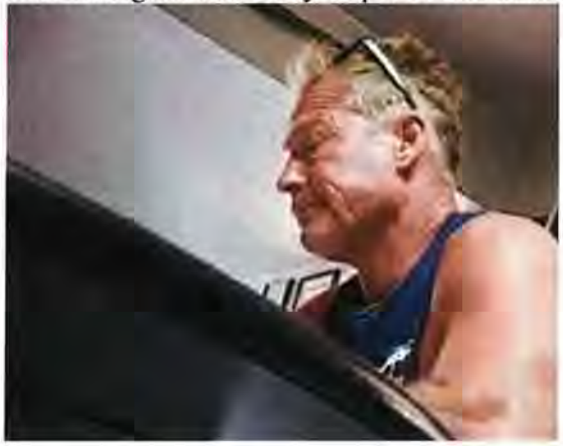
SA Grusing asked Barry to review a series of twenty photos of him walking to the McDonald's trash can. The first few photos depicted him carrying a small item in his hand.

Barry said, "I know that I had a bunch of crap in my truck from cleaning off my work bench. And I do know that one of them was an old pair of boots that was ripped. And the other stuff, I just don't…" SA Grusing said Barry had a small item in his hand and used one arm to push it down, then both to push it further down as Barry was shown the photos.

Barry said, "Yeah, yeah," then, "The trash was heaping to the top, that's why. (UI) just sittin' in there."

SA Grusing asked if the photos helped Barry recall what the item was and he said, "No, I mean it was just probably trash in the (UI)."

SA Grusing showed Barry he pushed the trash to the extent his shoulder was in the trash can.



Barry said, "Yeah, I don't even recall that, but."

SA Grusing said Barry returned to the truck, grabbed another item and walked it back to the trash can. Barry said, "Yeah." Barry was told anything he could remember helps the investigation, that these appear to be two small items he disposed.

Barry said, "Yeah, I wouldn't. I couldn't tell you what that was."

(Discussion of Exhibit 12)

SA Harris reviewed Barry's left turn from 225 to see the bull elk on Sunday morning, looking for the future shed, asking if he had to go up in elevation.

Barry said, "No. I was just seeing their route. I just wanted to know – cause they usually take the same route, so, if a herd of elk is gonna go up across the road at a certain place and go up there, then that's where I'm gonna go look for their sheds."

SA Grusing asked if Barry saw them and continued to look for their route as he went along.
He said, "No. I just wanted to see the direction because Colorado Trail is right off that parking lot, and it's pretty flat all through there, and it doesn't start going up 'til you get up to the railroad tracks. So, you can, you can pick 'em and see them through the trees, wherever they're, where they're going."

Barry was asked if he was in a rush to get to Broomfield and the elk distracted him.

He said, "There was no rush to get there. I'm just an early riser and an early go-getter and usually if an animal gets in my interests, I'm gonna take advantage of it. That's it. But I just went down, I watched where they went, turned around and went right to Broomfield."

Agents showed Barry the photo of a SG11 Mini DV Operating Manual for a camera, which SA Harris explained was recovered in the bathroom drawer.

Barry said, "Yeah, and I never used it. I bought it 'cause I thought I would use it as a game camera. A little thing and it was cheap, and my game cameras," SA Grusing interrupted and said the camera was not found in the search of the house.

Barry stated, "I don't even know what happened to it. I know that I bought it and it was tiny and I think as soon as I got it I tried to get it working and couldn't and thought it was just junk, and I got ripped off (UI)."

SA Grusing asked when he bought the camera compared to when Suzanne went missing.

Barry replied, "I don't recall."

SA Harris said the manual was found at the top of items in the drawer. SA Grusing asked Barry to confirm he did not get it to work.

Barry said, "Yeah, I tried to get it working and I couldn't. I just thought…"

SA Grusing asked if he tried to mount it outside like a game camera and Barry said, "No. Never. I couldn't get it working."

(Discussion of Exhibit 14)

SA Harris reviewed photos of the safe in Barry's garage, with items piled in front of the safe, to address his concern that Suzanne took money from it.

SA Grusing showed Barry a photo of the contents of the bottom of the safe, noting that the scope looked like the scope mounted on the chipmunk gun. Barry looked at the photo and stated, "Yeah, it does."

He added, "I could've mounted that after the fact."

SA Grusing said that was why Agents asked him earlier about the scope being on the gun, clarifying he could have mounted after the fact?

Barry shook his head and said, "Yeah, I just don't recall."

SA Grusing told Barry the serial matches the one on the squirrel gun and Barry said, "Yeah, yeah."

(Discussion of Exhibit 17)

SA Harris showed Barry photos of Suzanne's wallet, cash, driver's license, hydration packet, medication and other items recovered from her Range Rover.

SA Grusing said that, considering the evidence, it does not appear Suzanne chose to disappear.

Barry said, "And I've never thought that." [77]

(Discussion of Exhibit 18)

SA Grusing showed Barry photos of the binder recovered in the search of his truck and the documents inside which appeared to be mail. Barry was told no documents from EA Outdoors for the Broomfield site were recovered and SA Harris said Barry previously told Agents he was studying documents for his job in Broomfield. SA Grusing asked if he threw the job documents away.

Barry replied, "No, I left them there for the workers."

SA Grusing asked if he left the documents in the hotel room and he said, "Yeah, I should've."

SA Grusing asked if Barry told Morgan he was leaving the papers and he said, "Um, I don't know. Everything was so crazy that day."

(Discussion of Exhibit 19)

Barry was shown photos of the dart boxes recovered from the search and asked if he recalled what all areas around the house he fired them.

He replied, "No, I don't. I know I have fired from the breezeway before and I've fired them from the garage at deer that were up on the hill behind the rock wall." (See Attachment 5)

Barry was asked if he ever missed a shot and he said, "A deer? Oh no." He continued, "No, I used to raise deer, I've shot hundreds."

SA Grusing asked if it was ever fired in the house.

---

[77] After being told of the affair, Barry asserted multiple times that Suzanne must have left on her own, which was why her personal documents, wallet, money and Camelbak water pack were shown to him.

Barry said, "Only if it was open in that door in that breezeway. But, not, not inside the house."

SA Grusing asked Barry how he wakes up a deer when it is out.

He said, "Yeah, you gotta reverse it." He continued, "Just uh, give it a shot, chemical in their (UI)."

Barry was asked if he had that chemical at the house and he said, "I don't know if I had any left or not. I don't recall."

Barry was asked the name of the chemical, but he could not recall it. He said he could make a phone call and added, "I don't recall having any left." Barry said they are fired like a bullet and when asked if they have an expiration date, he said they have one.

(Discussion of Exhibit 20)

Barry was shown photos of the interior of his truck with the tools, trash and disorder when it was photographed by law enforcement. He said nothing looked out of place. When asked what was in the backpack, he said, "Clothes, just clothes for staying overnight."

(Discussion of Exhibit 23)

Barry was shown the photos of nude women and sexual encounter dating sites recovered from his cell phone. He said he never had a dating website and the images and websites recovered must have been from pop-up ads when he was viewing pornography. Agents agreed such images and dating sites could have come from Barry viewing porn on his phone.

When asked about any searches for meeting girls, Barry said, "Well, you can obviously see that I never looked for a girl on my phone or online. I mean, there's nobody out there. So, I mean if there was, you guys could, if anybody could, you guys could."

SA Grusing discussed Macy's texting and said his girls and Suzanne shared things he did not know about.

Barry said, "Me and my daughters are pretty close. I mean, if there's bits and pieces there, then yeah, that doesn't surprise me, but if it's a long conversation about…I guarantee you, my daughters had no idea about the affair."

SA Grusing asked if his daughters still did not know as someone walked in the room and Barry stood up. Agents followed him outside and spoke by his truck.

Barry said, "Oh, you asked me if they knew about the affair, I did tell them." Barry was asked how that went, and he said, "Not very good."

Barry was asked if he told them both at the same time and he said, "Yep. I just sat 'em down and I said, 'Girls, I don't want to ever keep anything from you and I don't want you to think bad about your mother, but I think this is important for you to know.' And I told them and they cried hard. They got angry, but I think it was the right thing to do."[78]

---

[78] This contradicts Barry's earlier statement that same day to the FBI – that he had not told his girls about the affair.

Barry said, "Yeah, well I gotta get back."

SA Grusing said the last item was Barry's texting to Suzanne from July to October 2020, and he was asked why he was texting her.

Barry said, "Ah, it was just an outlet for me to try to deal with my pain."

Barry was asked if he was actually texting her message content and he said, "I texted if she could see it, I was texting as she was, as if she could read it. And I knew deep down in my heart that she probably wasn't reading them, but it just kinda gave me comfort that I was talking to her."

Barry said, "I'll look into it. I can tell you right now what every one was, was, 'I love you. I miss you. I want, I'm not gonna stop looking for you.' Just things like that to make me feel better, yeah."

Barry added, "And I just assumed that you guys had the phone. Um, but I thought if there was a chance, if she had it and could see something, but like I said, I mostly did to make me feel better."

SA Grusing said the FBI would search with law enforcement for the phone, and for Suzanne, asking Barry where he thinks we should concentrate.

Barry replied, "I would say the river. I mean, that makes more sense to me than anything. I don't understand why somebody hasn't been out there, before now. When the river was low, I mean, heck, they spend a hundred and forty grand to dig up a job site that there's no way she was at."

SA Grusing said the issue investigators have with the river is Suzanne's helmet being placed away from the bike, placed as possibly a diversion, indicative of foul play. Barry said, "Yeah, yeah."

**(April 22, 2021)**

[In this interview, FBI Agents showed Barry their audit results and discussed them, directly telling him in the end that Suzanne was not conscious Saturday evening, May 9th or Sunday morning May 10th, and Barry agreed with, "Yeah."

Barry admitted to disposing of the tranquilizers; he confirmed his last encounter with Suzanne was hearing her "light snore; he explained his locations in the woods around his house on May 9th as looking for a turkey; and agreed the evidence in this case makes him look bad - but it's "in God's hands." Agents told Barry that from his own words when he says, "I don't recall," that means he is lying - because he answered almost all of the audit questions with "I don't recall."]

At approximately 10:45 AM, SA Grusing and SA Harris met Barry at Franz Reservoir in Salida, Colorado at his request. Barry arrived driving his bobcat, parked and then greeted agents and thanked them for meeting him. Barry stated that he was sorry "Yeah, I'm working right here, sorry we couldn't get somewhere a little less windy" and "I got a couple workers over there so hopefully we can move pretty quickly." SA Grusing told Barry that it was up to him how much he wanted to accomplish today.

SA Grusing asked how Barry is doing and he says it has been tough for he and Macy with Suzanne's birthday on the 30th and the 10th is coming up. SA Grusing explained that he and SA Harris have put together an audit that is sort of like an inspection and that Agents would like to show it to him and discuss some of the answers that he has given and determine where Barry is today. SA Grusing said he would like to hand it to Barry and go through it with him and he agreed.

SA Grusing directed Barry's attention to the second sentence and said that Barry as her husband is the last person that saw her and that it seemed that May 9th is the last time Barry saw her and May 10th is the last time he heard her breathing. SA Grusing asked Barry if that is correct and Barry said, "Yes." [79]

SA Grusing then mentioned the last proof of life independent of Barry is when she is talking to her lover when he comes home.

Barry was asked where the $30,000 from the GoFundMe page for Suzanne went and whether it was used to pay for the Longhorn Ranch property. Barry said, "I don't recall where money went, but like I said, if it, there, a lot of that money, I paid George $4000 cause he, s-, stopped working. I paid a lot of things out of that money, but I don't recall a lot of what it was."

SA Harris explained to Barry that agents want the fullest picture and when things are missing after behaving consistently, there is a question of what changed. SA Harris explained to Barry that Suzanne's phone behavior is one of these places because Suzanne consistently sent either "goodnight" or "good morning" messages to her lover and that there is an absence of those messages on Saturday evening and Sunday morning. SA Harris told Barry that looking at the evidence it seems likely something happened to Suzanne's phone, to Suzanne or both since she is not saying something to her lover before she goes to bed. Barry nods his head in response and says "Yep."

---

[79] This is the paragraph shown to Barry: "The Federal Bureau of Investigation (FBI), Denver Division, is submitting the results of the interviews with Barry Lee Morphew and how those results compare to the evidence collected by investigators as of the present date. Barry, as the spouse of Suzanne, is the last person to see her alive on or about May 9, 2020 or May 10, 2020. Independent of the spouse, the last proof of life for Suzanne was verified as being shortly before 2:44 PM on May 9, 2020."

SA Grusing told Barry that for sure on Sunday morning after Barry leaves, Suzanne would have been texting her lover so her phone is either gone or inoperable Sunday morning. Barry said, "K."

SA Grusing said that we have seen months of data from her phone. Barry said, "And there's no evidence of anybody getting into my house after I left? SA Grusing said that is correct. Barry said, "None."

Barry is silent for a moment and then turned towards SA Harris and said, "Ok, go ahead."

SA Harris talked about how sometimes in marriages spouses may see things differently, but it appears clear to investigators that Suzanne was taking steps to communicate to Barry that she was done with the marriage. SA Harris referenced the text she sent asking to do it "civilly" and also Suzanne saying that she forgot to say she would still do Barry's billing for him.

Barry said, "Well, like I said, she never sat me down and said that to me. Ever. She's made comments via text, but she has never sat me down and said, 'Barry, I want a divorce.' Never. So, I can see through an investigator's eyes that they would look at something like that and say, 'Well, yeah if they were going to get a divorce then Barry you know, might, might do something.' But that just was not the case. I mean absolutely not the case."

SA Grusing asked Barry again about the statement that Suzanne's lover told investigators where he said that Barry either found out about the affair or she said she was leaving him or both and that is why Suzanne was not responding on Saturday or Sunday. Barry pauses, shrugs his shoulders and shakes his head from side to side and then said, "I, I don't know what to say about that. I mean I would not, if she would tell me – I love her so much that if she would say, 'Barry, I'm not happy. I've found love somewhere else.' I would say, 'We don't need to get a – if you, if this is what you want, I don't want to be with you if you don't love me. I love you, but I want you to be happy.' I would of wrote her a check for half and let her on her way." [80]

SA Grusing asked what the check would have been back then. Barry said, "Well, we'd have to sell the house. Wouldn't have been much back then. I'm just saying we would sell the house and split everything. I wouldn't get a, pay for an, divorce lawyer or anything like that. I love her enough I got a relationship with her. I'm a good-hearted guy. I want my girls to be protected. I would say, 'I don't agree with this. I love you. Here's your half. I'm sorry it's gotta be this way.' That's the way I would handle it, if it ever came to that. But like I said, she never sat me down and said that. If she would've knowing what I know now, about her life, her second life that she was leading. All she had to do was be honest with me. I'm not gonna like it. It's not gonna feel good. But I'm a God-fearing man. I love the Lord. I think that she loves the Lord."

He continued, "I know that she was in sin. And Satan can put blinders on anybody…So, I know what this looks like on the outside and I know what the people, and if they get wind of this affair are gonna say and its gonna look like to them, but they don't know me. And they don't know her. And they don't know our relationship. If you knew how special our relationship was from day one to when she fell into sin, I, you couldn't have told me…"

SA Grusing interrupted Barry and said that he could see that Barry was trying to uphold his side of the relationship. Barry said, "But she didn't believe that in her head, Jonny…I mean I gave her everything since she was seventeen years old and I'd loved her better than anybody could. So, it doesn't make sense to me why she did what she did."

SA Grusing went back to the first paragraph on the audit and told Barry that investigators still don't have from him the last time he saw Suzanne alive and asks Barry what time he would say. SA Grusing explained that investigators are looking for last proof of life because we have a difference of her breathing and then Barry seeing her. Barry said, "Yeah."

SA Grusing asked when Barry would say he last saw her alive. Barry said, "Well, I would say five o'clock in the morning I seen her in the bed."

---

[80] This statement contradicts Barry's texts threatening suicide after Suzanne said "I'm done," his statements of "controlling his hurt heart," and "hot-head Barry found out and killed his wife," and God's judgment on Suzanne for cheating.

SA Grusing asks Barry what he saw. Barry said, "I mean that's, I don't, I just see a lump there, because the light from the bathroom, the light in the rooms not on but bathroom right there lights up a little bit." [81]

SA Grusing asks Barry what he sees. Barry said, "I don't specifically see anything, but I know from peripheral vision walking in and out that she's laying there – I just know she's laying there. I'm not saying I looked directly at her …but she, but I specifically, one hundred percent, no doubt in my mind heard her snoring lightly when I left."

SA Grusing asks if Suzanne normally snores lightly. Barry said, "Sometimes she does, it's not all the time, but when she's in a deep, deep sleep, yeah."

SA Grusing clarifies that it is not an all-out snore, but a light snore.

Barry said, "Yeah, I mean, I mean she does it. I mean she's done it her whole life, just not every night, but yeah it happens."

SA Grusing asks about detail. Barry said, "I would say f-, five o'clock in the morning. There abouts when I walked out."

SA Grusing clarifies again that Barry the last thing he hears is Suzanne lightly snoring.

Barry said, "Yep. And there- there is no doubt, one hundred percent that she was in that bed because of that. Like I said I don't specifically 'member looking directly at her, but I remember the snoring. One hundred percent, no doubt in my mind."

[82]

SA Grusing clarifies that Suzanne was not with him when he took the left turn to look at the bull elk. Barry said, "No, no. Absolutely not. One hundred percent no."

SA Grusing asks if Barry had the helmet with him when he went to see the bull elk. Barry said, "Absolutely not. Absolutely not."

SA Grusing explains that is the direction the helmet was found. Barry said, "No. Absolutely not." SA Grusing said that he has to ask those questions. Barry said, "I understand."

---

[81] SA Grusing introduced "the lump" concept to Barry on June 2, 2020 when Barry refused to answer what his last visual sighting of Suzanne was.

[82] Barry often stood or sat in this manner while speaking to Agents.

SA Harris asks Barry about the timing of when he left because he is saying five, but he had looked at earlier times on the sheet he was shown and that we are trying to make sense of marks in time. Barry interrupted and said, "And I don't know, I, I don't know exactly the time, I just know it was around five o'clock. But I don't know exactly."

SA Grusing asks Barry when he sees the lump was it him seeing just covers, or some of the covers with Suzanne.

Barry said, "Like I said, I don't recall looking specifically at her. I just know she was there. Maybe more from the noise than seeing her. But I know I saw her there. No doubt in my mind. Hundred percent she was laying right there. When I left."

SA Grusing tells Barry that investigators are still waiting for some things like her Range Rover and that things like this don't end and that we are waiting for snow to melt to look at a few places. SA Grusing asks Barry to call if he has anything else that comes to mind and we will talk. Barry said, "I just want, I've been, I've been, have I been cooperative with you guys?" SA Grusing says he has.

Barry said, "Any guy in his right mind that knows anything about the legal system would tell you not to talk, I just…"

SA Grusing interrupts Barry to say that he hears Barry, but fathers or spouses of people who go missing typically can't be stopped from calling the FBI. SA Grusing told Barry if he is guilty, he is correct, that he should not be talking to us. Barry said, "Yeah."

SA Grusing says but if Barry wants us to find Suzanne, he shouldn't hesitate to call on anything that comes to his mind. Barry said, "And I want that. I mean I still love her. Even though I found all this stuff out and even though it hurts me to the bone. It doesn't mean I don't love her…I want her ba-, I know she made a mistake. I know it's not her. And I know that if she got right with the Lord that she, she would ask for forgiveness from him and me." Barry added this is hard on his daughters and he wants Suzanne back.

SA Grusing asks Barry if he remembers what he said when he first met with Agents and what he said about Hillary and Comey.

Barry said, "I probably said something about 'Comey's a liar.' He's at the very top of FBI and he's a liar."

SA Grusing asks Barry if he remembered what he said about how he knew Comey was lying when he said certain things. Barry said, "No."

SA Grusing reminded Barry that he said when Comey said, "I don't recall" and that is what both Hillary and Comey would say and that is what Barry told Agents indicated that they were lying. [83]

Barry said, "Yeah. Well. (pause) I just don't trust the whole thing about Comey and Hillary. So, I mean I don't know if you're trying to twist that around and turn, put it on me, but when I tell you I don't recall something, I don't recall it."

---

[83] By this point in the audit, Barry had replied, "I don't recall" so many times to the audit questions that Agents lost count.

SA Grusing says ok. Barry said, "It's not that I'm lying. There's nothing in the, in every question you guys ask me, there is nothing that I had to lie about it." SA Grusing said agents didn't know if it was a subtle way of Barry telling us that.

Barry said, "No, absolutely not. If I told you guys that I don't recall something, then I didn't recall it. The way, reason I said that about Jim Comey is because I heard the questions that they were asking him and there's no way in heck he couldn't recall that. There's no way."

SA Grusing tells Barry that he might not believe this, but he doesn't pay attention to the things that happen in DC because that is not why someone signs up for the FBI. SA Grusing tells Barry he hopes that people can see that is not who we are. Barry says that he sees SA Grusing and SA Harris as two men of integrity and honest God-fearing men and then said that he hopes agents would see him in the same light because Barry thinks "us three are a lot alike."

SA Grusing says that we all make mistakes as well and that is why agents want to leave room for Barry to talk about anything including something he thinks might make him look bad, but he hopes agents are the type of people Barry could tell that to. Barry said, "You are."

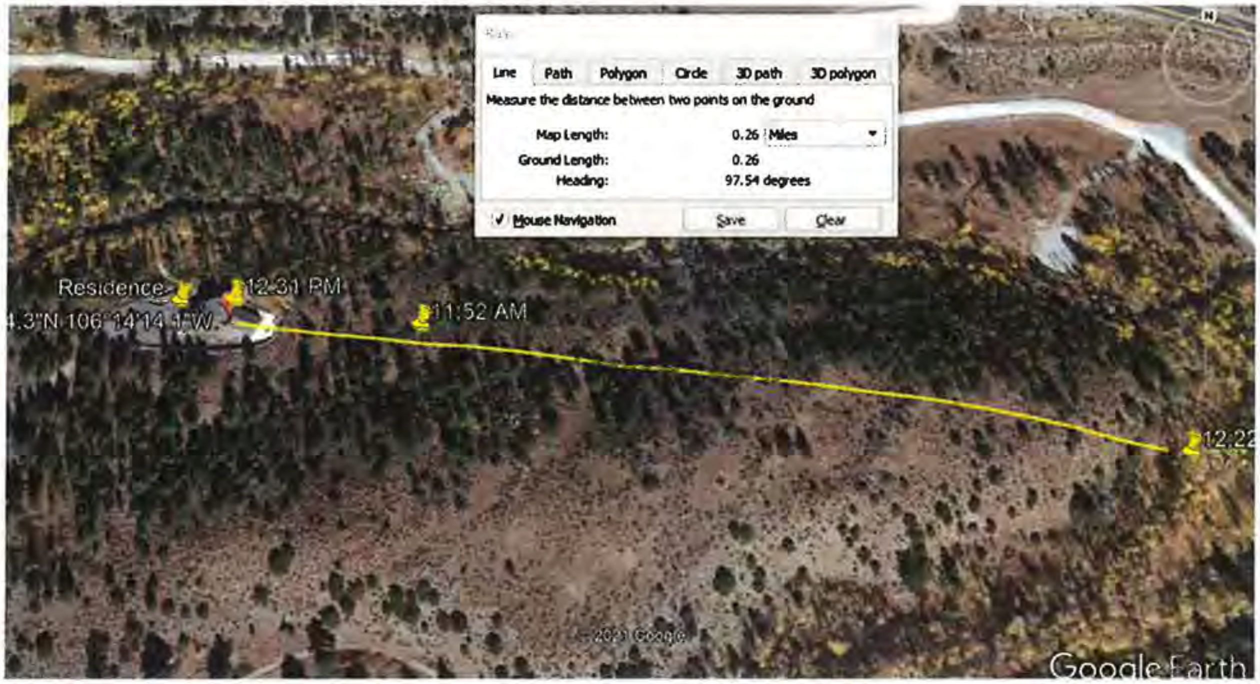
SA Grusing asks if Barry would show agents the pin on his bobcat he was repairing on Saturday. Agents and Barry start to walk back over to his bobcat. While walking, Barry said, "So as of now, I'm not going to get anything of mine back?" SA Grusing said that is not up to agents. SA Grusing asks Barry what's most important. Barry said, "The guns are the most important. And my cameras."

SA Grusing asks about the pin on the bobcat. Barry points to a pin on the back right arm of the bobcat and says that he didn't even realize that the nut has come off of a bolt that is there. Barry states that when the bobcat arm goes up and down the pin works its way out one way or the other and he just has to beat it back in to place, because it holds the cylinder in place. SA Grusing asks if Barry can do that on his own and doesn't need help. Barry confirms that he can. Barry starts talking about the cutting blade of the bobcat and walks around to show agents as he describes how it has a cutting edge on both sides and can be flipped and that when Crib had to replace his blade, it had already been flipped and both edges were worn out. Barry said he thinks that Trent had that blade and gave it to CBI.

Other topics covered in the audit included: Barry's purchase of the VPN; Barry deleting calls from his call logs; why Barry initially thought his big argument with Suzanne was on Friday; evidence through Libler messages of other arguments (daily) that week, how long Suzanne was "distant and unloving;" if Barry and Suzanne were separate on Wednesday and Friday evenings based on their cell phones; discrepancies in his calls to Gene Moorman; evidence pointing to Barry sending the Facebook "friends" requests on Friday night; Barry's phone functions involving passwords, token sharing and group functions; and the multiple Airplane mode functions on Barry's phone.

Barry was shown Google maps of his residence and his phone activity on Saturday, May 9th, when he arrived home between 11:30 AM and left at 1:38 PM. When shown location points that his truck may not have pulled in the driveway and he appeared to be coming up through the woods on foot to his house, Barry said he might have been looking at turkeys.

Barry was shown a second map, below, of his movements from 11:52 AM to 12:31 PM, when he appeared to head east of his property, during the time he was supposedly having "veggie soup" with Suzanne. Barry said he was looking for a turkey that Mallory had shot previously with a bow, but they had never found.



Measure the distance between two points on the ground

Map Length: 0.26 Miles
Ground Length: 0.26
Heading: 97.54 degrees

☑ Mouse Navigation

Barry was shown a third map where it looked like he was on foot, heading back to his truck, before he left at 1:38 PM and called Suzanne at 1:47 PM and 1:49 PM. Barry said it made sense that he did not talk to Suzanne much during that lunch hour as a reason for him calling her twice when he got to Highway 50.

Barry was asked about the following and shown exhibits:

Regarding his trip to get a backhoe on Saturday, May 9th, and why he needed a backhoe that day; where the towel Suzanne was lying in her last photo on might be located (not recovered at house); why Barry texted Suzanne, "Did you leave," as he headed home at 2:31 PM; more details about the chipmunk gun, when he mounted the scope and Suzanne's reaction to him shooting; when the Fooses hike occurred; details of his last meal with Suzanne; whether Barry unplugged his router or threw away surveillance components; his purchase and disposal of the mini-camera; his cleaning of the workbench for his trip to Broomfield; his movements through Saturday night and Sunday morning; when he last saw Suzanne's phone; items thrown away and trash runs in Broomfield; proof that he was not at the wall when he received the call from the Ritters; and staging of the tools in the hotel.

Regarding the photo of Barry pushing the trash to the bottom of the McDonald's trash can, he said the photo makes it look like he was disposing of evidence. He "could not recall" what items he threw away.

When asked about the folders that were burned in his fireplace, he said he and Suzanne were cleaning out file cabinets that week.

Barry was shown a map of Garfield, Colorado and he confirmed he turned around on Sunday, May 10th, at the first place he could have, pointing to exit 228.[84] Barry said he did not climb that road leading up into the mountains, nor did he go into any of the mines. He said George and his buddy searched those mine shafts for Suzanne.

When asked about Suzanne's leather journal that was not recovered, he said he "did not recall" that she had one.

Barry was told that Suzanne confided in friends that sex with him was not pleasurable, then reminded that he put "Sex" as the top reason on his victimology questionnaire for someone's motive for her disappearance. Barry refuted that by saying, "She had an orgasm every time, so I don't understand that."

Barry said he should have listed "rape" instead of "sex" on the questionnaire as a motivator for her disappearance because he thought of "some creep trying to rape her."

Barry was told by SA Harris about the needle sheath for the tranquilizer being found in the dryer. He said he had no idea how it got there and "it's got nothing to do with me." Barry added, "I hate that because, you know, that makes me look bad."

SA Grusing asked Barry if he shot the tranquilizer gun on Saturday, May 9th and he said, "Absolutely not." Barry was told no tranquilizer, like BAM, was recovered at the house. He said he used BAM, Telazol and Xylazine as tranquilizers. When Barry was asked if he disposed of those, he stated, "I don't recall." Barry was asked what he used to reverse the tranquilizer effect and he said, "Tolazine." Barry said he brought the chemicals, which he knew to be controlled substances, from Indiana and kept them on his workbench.

Barry said he kept the chemicals in vials and injected the chemicals into darts, not using a licensed vet for the process. When asked if he was able to do that all himself, he said, "Yeah, absolutely."

Barry was asked the last time he used those chemicals and he said around the end of April 2020.

SA Grusing asked if those chemicals could have been part of the workbench he cleaned off before he went to Broomfield and he said, "Could've been."

Barry admitted to submitting a ballot on Suzanne's behalf for the Presidential election, saying, "Yeah, just because I wanted Trump to win." He said, "I figured all these other guys were cheatin' – I knew she was gonna vote for Trump anyway."

SA Grusing informed Barry that was not legal and Barry said, "I didn't know you couldn't submit it for your spouse."

---

[84] Barry pointed to this as a possible turn around point, though he stated, "I don't recall" numerous times.

Barry said, "All I have now is my hunting. That's all I have. And I've done it since I was seven years old. So, if I got to live this life without her, I at least want my hunting. And this year I'm going to travel. George and I's gonna hunt. And it would be nice to have my guns that I'm confident with and shot many animals and have great confidence in 'em. Be nice to have my cameras. When I go back to Indiana, I put em up there and there's cell phone cameras that I can be anywhere in the country and I can get pictures of the deer that I'm huntin'. So guns and cameras are my most important things on the wish list."

SA Harris tells Barry that when he talks about closure for himself and the girls, agents want to find her to give them that closure and that agents want him to know that is a focus for them. Barry said, "I know. And I just need to know from you guys and I think I asked you this, if there's physical evidence that she is deceased, my family needs to know about that." Barry said that Macy thinks Suzanne left and he needs evidence she's not still alive.

SA Grusing tells Barry that there is no way that Suzanne is not communicating on her phone Saturday night and Sunday morning if she is conscious and if she is able to access her phone. Barry said, "Yeah," shrugs his shoulders and looks down.

SA Grusing says it would not happen and compares Agents knowing Suzanne's phone the way Barry knows how to use the bobcat and how it behaves. Barry interrupted and said, "But Jonny, when you say that, that makes it l-, that makes me look like the bad guy."

SA Grusing tells Barry that he is the one who is there. Barry said, "I know, but it, it's, it just didn't happen."

SA Grusing says that if it is not Barry, somebody took her phone, then.

Barry said, "Like I said, I, I don't know what, I mean you guys have got to give me, you, you've texted me you're going to be my advocate. What did you mean by that?"

SA Grusing said that he told Barry he would be his advocate to represent Barry's statements the very best he can, because right now Barry is not going to stand up and tell everybody his story because he is smart enough not to do that. Barry is talking to agents and we want to tell the unvarnished truth of what Barry is telling us and not shade it one way or the other.

Barry said, "Ok."

SA Grusing says that if Barry took her phone, agents can see that Barry is wanting to repair the relationship and Suzanne is trying to do the opposite, so that if Barry would come home and take her phone Saturday night that would look bad for Barry if she went missing the next day. Barry begins sliding his foot back and forth on the blade of the bucket on the bobcat.

SA Grusing continues telling Barry the burden would be on agents to find out what happened to Suzanne and not him. Barry responded, "Yeah."

SA Grusing says it would make sense to agents that when he comes home around 2:44 pm on Saturday that he would take her phone and she runs off or disappears or whatever happens, happens. Barry said, "Yeah."

SA Grusing says again it is our job to find her. Barry said, "Yeah."

Barry again slides his foot along the cutting blade of the bobcat. SA Grusing said if there is something bad happened and it looks bad for Barry, he should tell agents and put the burden on them to do the rest of the investigation.

Barry said, "Yeah. Well, I've told you everything truthfully. Both you guys. So, it's in God's hands. I mean he allowed this whole thing to happen."

SA Grusing talks about how the pieces like Barry chasing around a chipmunk with a gun or the left turn for the bull elk are pieces that we need.

Barry said, "I know that all that stuff looks bad, but it's just crazy that that stuff's even a part of this. I mean it's crazy how that stuff, ironically, is part of this. It, it just makes no sense. To me. Like, why would God allow pieces like that, that have to be answered in this situation. I just, I don't get it."

SA Grusing asks Barry what his thought is on why.

Barry said, "I have no idea. I don't know his ways, he's way greater than us. I don't know. I've often thought, 'God, why?' I thought that I'd be cleared in two months. And I've often asked God, 'Why are you dragging me through this? You know physically this is not good for me, mentally, emotionally, spiritually.' I'm not angry with God. I fear him, love him, respect him, know that he allows things to happen for reasons. I try to figure out why. I try to say in my head, 'If she's (pause) going through this, all this stuff that I found out since January. And maybe God wanted to protect the girls from heartache. I mean, I don't know, but…"

SA Grusing talks about personal sacrifice and how this never goes away and gives an example. Barry asks how he could live like that. SA Grusing continues and tells Barry that if there is something that happened that makes him look bad and he would trust agents with something like that, we could help him.

Barry said, "I, I gotta have help. I mean if these people in Chaffee hate me like the word is they hate me and they get to the DA and he says, 'He made our Sheriff's department look bad and we're gonna blame it on him,' then my daughter, who's gonna raise my daughter if they lock me up for something I didn't do?"

SA Grusing said even if it is something you didn't do, but something you know about that would help us, maybe that is Barry's sacrifice. Barry said, "Yeah." SA Grusing tells Barry he is not saying it will be easy, but this will not go away.

Barry said, "Yeah. Well, what happens from here? When you guys go to them, what's the next step?" SA Grusing explains that Agents will share the results with the district attorney's office and it will be up to them. SA Harris offers again that Barry could take a polygraph. Barry said that he would pray about it and that he needs to get going. Barry tells agents to be careful going back.

The interview ends.

## **Ongoing Investigation**

### (Tranquilizer Research)

On April 20, 2021, SA Grusing interviewed Lisa Wolfe, Field Veterinarian (retired), Colorado Parks & Wildlife (CP&W), who advised she developed and tested the solution "BAM" (Butorphanol tartrate, Azaperone tartrate and Medetomidine hydrochloride), an anesthesia combination that is used to immobilize a broad range of species of animals. Wolfe practiced as a licensed veterinarian for 35 years and taught courses on the effects of sedatives on wildlife. Wolfe said BAM has not been tested on humans, to her knowledge, but she predicts a tranquilizer dart would cause considerable hematoma to human skin because it was developed to pierce through deer hide.

Wolfe estimated that a female of Suzanne's size would likely be fully sedated from a dose of BAM in eight to twelve minutes and in complete sedation from two to eight hours, depending upon how her body reacted to the tranquilizer and her resting position. Wolfe suggested the dart would be very painful and estimated a female would be likely run for two to three minutes and she would "feel a little bit drunk" before complete sedation, appearing wobbly and unstable. The only safe place to fire the dart would be into the buttocks area because the impact to internal organs would cause considerable damage and the dart should not hit any bones.

Wolfe said that a person's breathing would be difficult while sedated from BAM due to brain hypoxia, since oxygen coming into the blood would be low. If a person was lying on her back, her breathing "would sound like a snore" as the tongue could be pushed into the airway.

Wolfe said a BAM dose to a human could be fatal, depending upon the health of the person and a second dose would likely cause brain damage. A licensed veterinarian must prescribe BAM for it to be used legally.

Wolfe was asked about Telazol (mentioned by Barry in the April 22, 2021 interview) and she said that is a heavily regulated antiesthetic, more potent than BAM, that is only to be used by licensed veterinarians. Telazol was used by CP&W to bring down bears, who would remain sedated for two to eight hours. It was also used for surgery and there is no reversal drug for it. Wolfe believed Telazol was a DEA-Schedule 3 class drug and she was surprised any civilian would have it.

Wolfe said that Xylazine is similar in nature to BAM, and is a sedative sometimes used to smooth out the effects of Telazol. She stated that Tolazine reverses the sedative effects of Xylazine. Wolfe said Atipamazole would likely be used to reverse the effects of BAM.

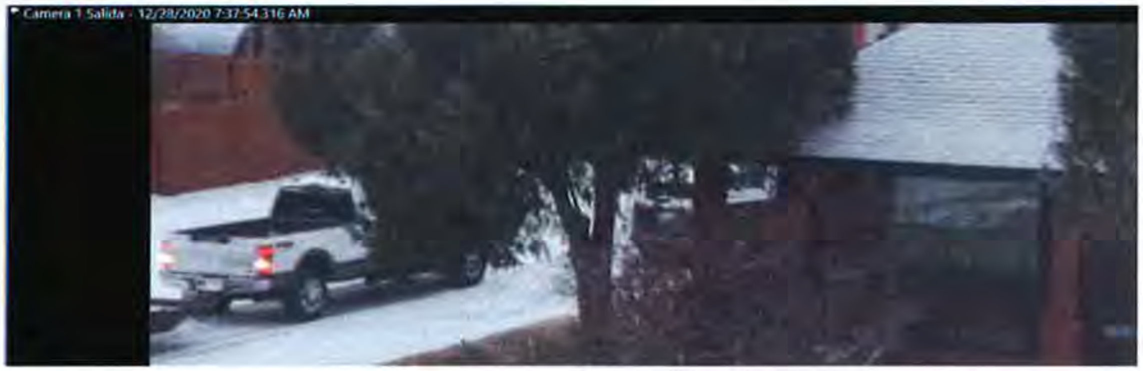
On April 20, 2021, SA Grusing called Mary Wood at (970) 732-2256, a current veterinarian for Colorado Parks & Wildlife, who confirmed that CP&W uses BAM to sedate animals and complete sedation occurs within 4-20 minutes. Wood said that the company Zoopharm, 1401 Duff Drive, Fort Collins, Colorado, manufactures and ships the BAM to licensed veterinarians across the United States, who can provide the drug to private citizens with a prescription. Wood knew of a human receiving 1/100th of a dose of BAM as a sedative in an IV, but she thought a full dose to a human might be fatal, depending on the physical characteristics of the human. Wolfe said the dart should be targeted towards areas of muscle with no bones, possibly the buttocks.

(Shoshona Darke)

On December 16, 2020, CCSO Deputy Miles Jones received a tip from a person who requested to remain anonymous. She reported that her friend, Shoshona Louise Darke, is intimately involved in a relationship with Barry.

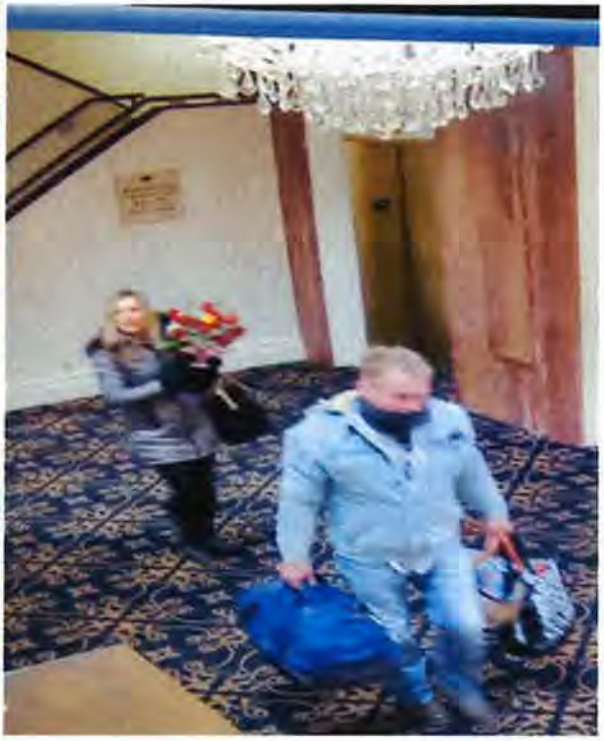
On December 17, 2020, Sergeant Hysjulien and Agent Cahill interviewed Darke at the CCSO office. She said she has known Barry since October 2020 because she cleaned his neighbor's house and met him at the dumpster by chance. She denied being in a romantic or sexual relationship with Barry. Darke deleted items on her phone (one possibly being a second phone number for Barry) in front of investigators and was evasive in answering questions. Darke said she called the CBI tip line in May 2020 to report strange vehicles being in the area around Puma Path around the time Suzanne disappeared. Darke said in the December interview that she did not know Suzanne, "and, Suzanne, she's my age. She's, a lot of people say I resemble her."

From December 2020 through April 2021, numerous Salida residents have reported that Darke is in a relationship with Barry. Their relationship is reported to date back to July 2020, though investigators have not confirmed that. A pole camera installed by the FBI has captured Barry's truck consistently coming and going from Darke's residence, often between 9:00 PM and 11:00 PM, sometimes staying through the night.



CBI Agents Graham and Cahill confirmed that Darke and Barry checked into the Antler's Hotel in Colorado Springs on February 12, 2021 and checked out on Valentine's Day, as captured on surveillance footage below, with Barry carrying Darke's luggage and Darke holding a bouquet of flowers. Barry's cell phone was either off or in airplane mode during a majority of this trip.

2021-02-12 16:



**SUMMARY**

Suzanne Morphew is missing and presumed dead, per all nationwide checks, investigative leads and absence of interactions with Jeff Libler, Sheila Oliver, Mallory and Macy. Once Macy left the Morphew house on May 5, 2020, Suzanne began to take her steps to leave Barry while Barry took steps to control her, incapacitate her, stage a crime scene and create his alibi for her disappearance.

No "hike" existed that Saturday afternoon in Barry's multiple interviews with CBI until a June interview, when he said they hiked to Fooses Lake. CBI allowed him to assert that a few times until they refuted the hike in his July interview. Barry was told that he was driving in Salida that afternoon, asking "Tim Backhoe" to purchase a backhoe attachment for his Bobcat.

Finally, Barry put his phone in Airplane Mode that Saturday afternoon at 2:47 PM after he returned home and ran around his house at 2:44 PM. He claimed to CBI that he and Suzanne ate steaks, though he cannot describe them; that she washed Mallory's sheets, though Mallory said the bed was made when she left; that they had sex, though he could not describe what happened following sex; that he woke to his alarm at 4:30 AM, though no alarm was set on his phone - and his phone and his truck telematics were moving in the 3:00 AM hour; and that he had to suddenly leave for a job in Broomfield, though he did not tell his co-workers he was leaving that morning.

Barry initially blamed a mountain lion for Suzanne's death upon being notified of her bicycle recovery. In 2021, Barry blamed the turkeys for why he did not have veggie soup with Suzanne during lunch on Saturday, May 9th, the deer for why his tranquilizer gun was used to explain the needle sheath recovered in the dryer, and a chipmunk for why he was running around his house after arriving home at 2:44 PM, and the firing a gun of a .22 caliber to describe his violence towards Suzanne that afternoon and the caliber of the tranquilizer darts. For his trip on May 10th, Barry explained his left turn on Highway 50 to explain the truck movement because of a bull elk sighting at 4:30 AM from two miles down the road, a left turn that placed him at the scene of Suzanne's helmet.

Barry cannot provide a last sighting of Suzanne, only labored breathing similar to a snore, which is consistent with her being tranquilized. Barry describes her as being drunk that afternoon, which matches the effects of the tranquilizer after a few minutes. He says he is running around the house, most likely chasing Suzanne while she is conscious. Barry has admitted that he had taken Suzanne's phone from her at least twice in the past to try to monitor or control what she was doing. There is no phone activity for Suzanne after 2:30 PM on Saturday, which is out of the norm for her typical behavior and an abrupt end following her 59 communications with Jeff Libler that morning and afternoon. By around 2:30pm on Saturday May 9th, it had become clear that Barry could not control Suzanne's insistence on leaving him and he resorted to something he has done his entire life – hunt and control Suzanne like he had hunted and controlled animals.

Barry told investigators early on that he blamed alcohol for Suzanne's change of behavior and her "distant unlovingness to him," though she was not a heavy drinker. Barry used alcohol, drugs and chemo throughout his interviews to describe Suzanne's independence and distancing from him, saying it was "every day" that last week.

Barry finally blamed God for Suzanne's death after being informed of the affair as a form of judgment on her and has stated repeatedly that God allowed this to happen.

Barry told FBI and CBI numerous times, "No evidence exists," which infers he knows what happened to the evidence in this case.

When the Ritters called Barry at around 5:00 PM on Sunday to tell Barry they could not find Suzanne, Barry was in his hotel room and had been there since about 12:40 PM. However, he should not be there, per his alibi to be out of town for an emergency job in Broomfield. Barry told the Ritters he was at the job site. He told the FBI, CBI and CCSO he was at the job site. He left his room, took tools out of his truck and put them in the lobby to make it looked like he was returning from the site. Barry made very little attempt to contact Suzanne on his way home, or look around his house or the bike scene, because he already knew what happened to her.

Setting the tools out that day was similar to what happened earlier that morning, when Suzanne's bicycle was placed on the incline, as Deputy Brown commented, "I started to question if something criminal had occurred as it looked like the bike was purposely thrown in this location."

As of May 4, 2021, Suzanne Morphew has not been located.

I affirm that this affidavit and warrant has been reviewed by the following attorneys with the 11th Judicial District Attorney's Office: District Attorney Linda Stanley and Senior Deputy District Attorney Jeff Lindsey 05/04/2021

Therefore, your Affiant respectfully requests that a warrant be issued for the arrest of Barry Lee Morphew, date of birth October 17, 1967 and pursuant to C.R.S 16-4-101(1)(a) the warrant be no bond. Further, your Affiant sayeth naught.

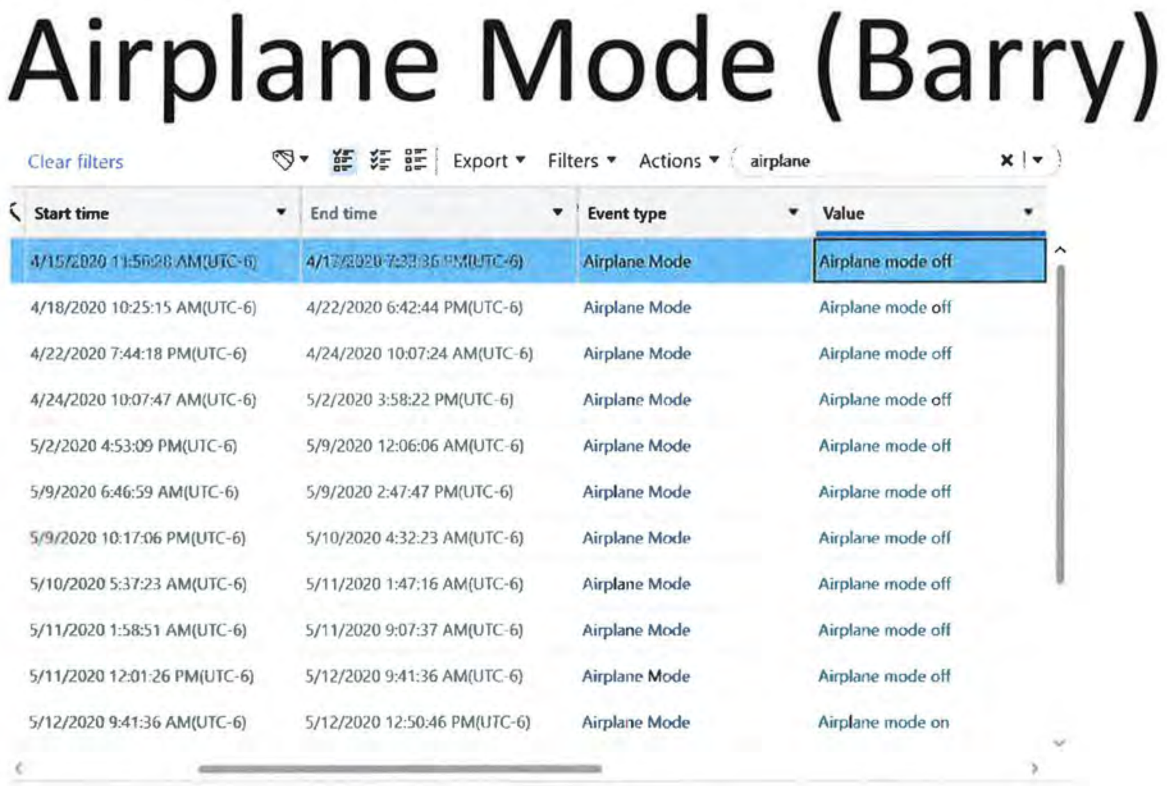
/s/ Alex Walker, IV
Alex Walker, IV
Chief Investigator

Subscribed and sworn to before me this 4th day of May 2021.

JUDGE
PATRICK W. MURPHY
Chief Judge, 11th J.D.

# ATTACHMENTS

(Attachment 1)



## Airplane Mode (Barry)

| Start time | End time | Event type | Value |
|---|---|---|---|
| 4/15/2020 11:56:28 AM(UTC-6) | 4/17/2020 7:33:36 PM(UTC-6) | Airplane Mode | Airplane mode off |
| 4/18/2020 10:25:15 AM(UTC-6) | 4/22/2020 6:42:44 PM(UTC-6) | Airplane Mode | Airplane mode off |
| 4/22/2020 7:44:18 PM(UTC-6) | 4/24/2020 10:07:24 AM(UTC-6) | Airplane Mode | Airplane mode off |
| 4/24/2020 10:07:47 AM(UTC-6) | 5/2/2020 3:58:22 PM(UTC-6) | Airplane Mode | Airplane mode off |
| 5/2/2020 4:53:09 PM(UTC-6) | 5/9/2020 12:06:06 AM(UTC-6) | Airplane Mode | Airplane mode off |
| 5/9/2020 6:46:59 AM(UTC-6) | 5/9/2020 2:47:47 PM(UTC-6) | Airplane Mode | Airplane mode off |
| 5/9/2020 10:17:06 PM(UTC-6) | 5/10/2020 4:32:23 AM(UTC-6) | Airplane Mode | Airplane mode off |
| 5/10/2020 5:37:23 AM(UTC-6) | 5/11/2020 1:47:16 AM(UTC-6) | Airplane Mode | Airplane mode off |
| 5/11/2020 1:58:51 AM(UTC-6) | 5/11/2020 9:07:37 AM(UTC-6) | Airplane Mode | Airplane mode off |
| 5/11/2020 12:01:26 PM(UTC-6) | 5/12/2020 9:41:36 AM(UTC-6) | Airplane Mode | Airplane mode off |
| 5/12/2020 9:41:36 AM(UTC-6) | 5/12/2020 12:50:46 PM(UTC-6) | Airplane Mode | Airplane mode on |

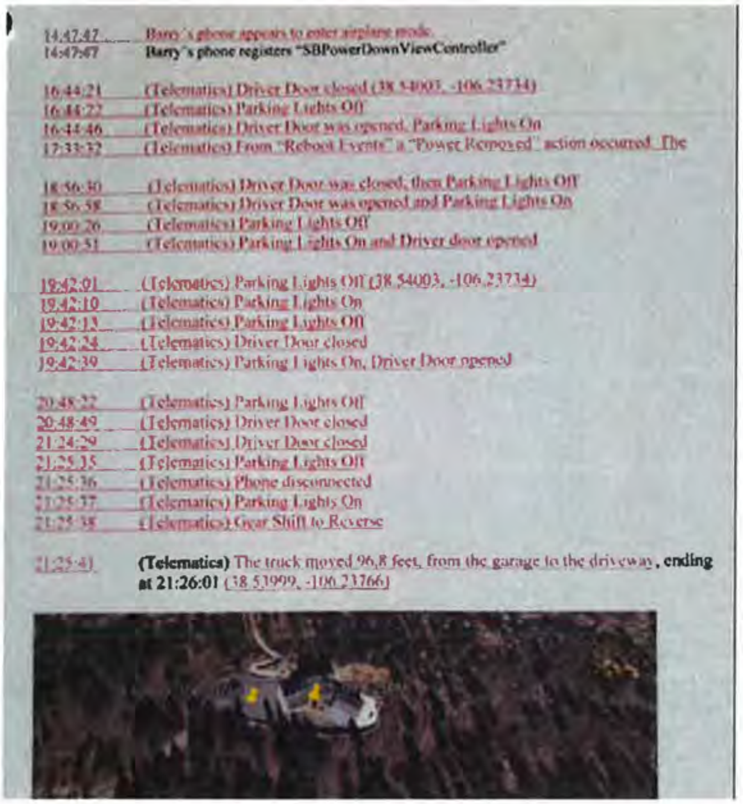
(Attachment 2)

Nothing about Barry's story of sneaking up in the woods because he wanted to take a shower made sense to Sheila Oliver or Suzanne. Sheila told Agents other stories of Barry sneaking up years ago in Indiana, climbing up the side of a house, to see if Suzanne had a boyfriend.

9NEWS
5:02 / 8:51

(Attachment 3)
On 11/03/2020 CBI Agent Graham spoke with Cara and Steve Marshall, the previous homeowners of the residence at 19057 Puma Path before selling the home to the Morphew family. Cara stated there was no damage to the master bedroom door jam when the residence was sold to Barry and Suzanne Morphew. Cara and Steve separately said they suspected Barry killed Suzanne after hearing the news of her disappearance based upon multiple observations they made of Barry during and after the sale of the house.

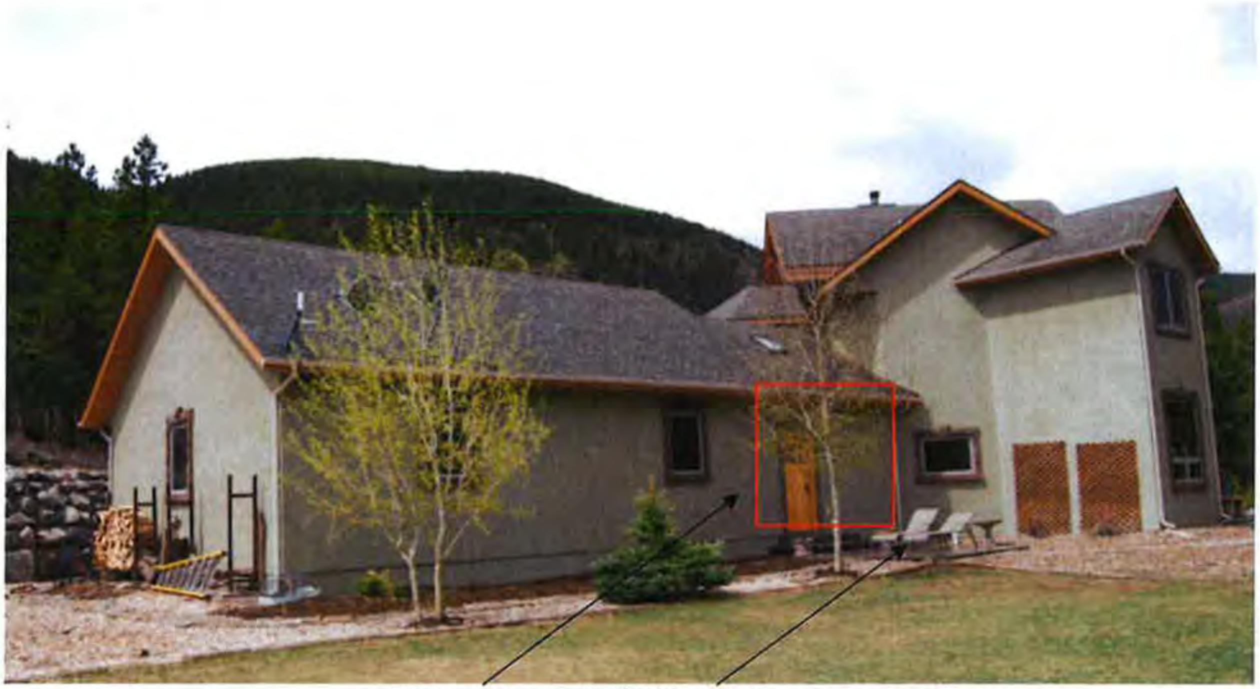
(Attachment 4)
A copy of the page shown to Barry of the activities of his truck on the night of Saturday, May 9th, that contradict his stories of cooking steak, having sex and going to bed at around 8:00 PM or 9:00 PM.



| | |
|---|---|
| 14:47:47 | Barry's phone appears to enter airplane mode. |
| 14:47:67 | Barry's phone registers "SBPowerDownViewController" |
| 16:44:21 | (Telematics) Driver Door closed (38.54003, -106.23734) |
| 16:44:22 | (Telematics) Parking Lights Off |
| 16:44:46 | (Telematics) Driver Door was opened, Parking Lights On |
| 17:33:32 | (Telematics) From "Reboot Events" a "Power Removed" action occurred. The |
| 18:56:30 | (Telematics) Driver Door was closed, then Parking Lights Off |
| 18:56:58 | (Telematics) Driver Door was opened and Parking Lights On |
| 19:00:26 | (Telematics) Parking Lights Off |
| 19:00:51 | (Telematics) Parking Lights On and Driver door opened |
| 19:42:01 | (Telematics) Parking Lights Off (38.54003, -106.23734) |
| 19:42:10 | (Telematics) Parking Lights On |
| 19:42:13 | (Telematics) Parking Lights Off |
| 19:42:24 | (Telematics) Driver Door closed |
| 19:42:39 | (Telematics) Parking Lights On, Driver Door opened |
| 20:48:22 | (Telematics) Parking Lights Off |
| 20:48:49 | (Telematics) Driver Door closed |
| 21:24:29 | (Telematics) Driver Door closed |
| 21:25:35 | (Telematics) Parking Lights Off |
| 21:25:36 | (Telematics) Phone disconnected |
| 21:25:37 | (Telematics) Parking Lights On |
| 21:25:38 | (Telematics) Gear Shift to Reverse |
| 21:25:41 | **(Telematics)** The truck moved 96,8 feet, from the garage to the driveway**, ending at 21:26:01** (38.53999, -106.23766) |

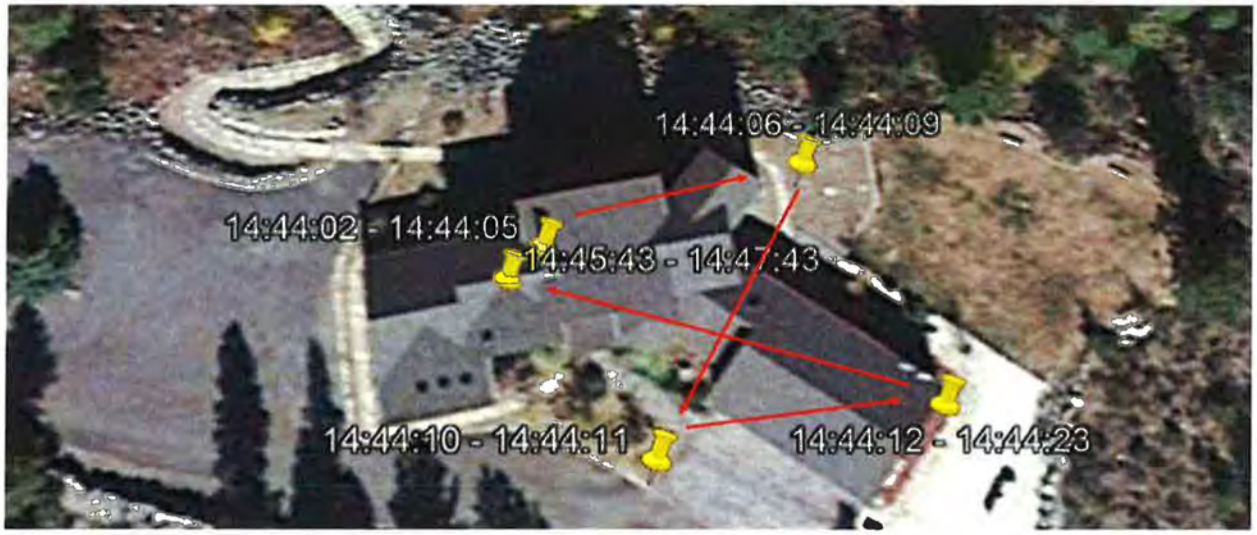
(Attachment 5)

A photo of the breezeway (red square) in relation to the chair where Suzanne was sunbathing on the afternoon of Saturday, May 9th.


Breezeway
Sunbathing chairs

(Attachment 6)

An estimate of the activity of Barry's phone as it appears to move from porch to porch, which he explained by chasing and shooting a chipmunk.


14:44:06 - 14:44:09
14:44:02 - 14:44:05
14:45:43 - 14:47:43
14:44:10 - 14:44:11
14:44:12 - 14:44:23